

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF RICHMOND - CRIMINAL TERM - PART 14

3 THE PEOPLE OF THE STATE OF NEW YORK

4 TALIYAH TAYLOR -against-

5 DEFENDANT.

6 Hearing
7 Indict. No 335/2006 26 Central Avenue
8 Staten Island, New York
9 February 26, 2016

10 B E F O R E:

11 HONORABLE WILLIAM E. GARNETT
12 Justice of the Supreme Court

13 A P P E A R A N C E S:

14 OFFICE OF MICHAEL E. McMAHON.
15 DISTRICT ATTORNEY-RICHMOND COUNTY
16 BY: Attorney for the People

17 BY: ANNE GRADY, ESQ.,
Assistant District Attorney

18 PHILIP SMALLMAN, ESQ.,
19 Attorney for the Defendant
20 32 Court Street
Brooklyn, New York

21 ANGELA PUNTORNO
SENIOR COURT REPORTER

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THE CLERK: Calendar number one, Taliyah Taylor, indictment 335 of 2006 on for various motions and hearing. Appearances.

MR. SMALLMAN: Good morning, your Honor, on behalf of Ms. Taylor, Philip Smallman, S-M-A-L-L-M-A-N, 32 Court Street, Brooklyn, New York.

MS. TAYLOR is appearing before the Court.

MS. GRADY: Anne Grady for the People.

THE COURT: Good morning. Ms. Taylor is now here. If you will be seated I want to go over some of the motions that Ms. Taylor has made and give you my decisions.

First, there was a motion before the Court for me to recuse myself. I read that. That motion is denied. There was a motion before the Court to change the venue of this 440. That motion is denied.

MS. Taylor made a motion to enlarge the parameters of the testimony aspect by this Court. First of all, I received this motion de novo. That means that it is my case, that any prior rulings by a judge of coordinate jurisdiction are not binding upon me. However, I will enlarge some of the areas of Ms. Taylor's testimony. Specifically she will be allowed to testify regarding what she meant by the calls and her interpretation and intent of the calls that she made with

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1 the two lay witnesses who were presumably going to be
2 called by the defense in this case.

3 We are not going to relitigate the issue of
4 mental illness except to the extent that is relevant to
5 an understanding of what Ms. Taylor was trying to convey
6 in her conversations with these witnesses.

7 All right, I think that's, in essence, it.

8 Mr. Smallman, correct me if I am wrong, all of
9 the tapes had been provided to you by the district
10 attorney; is that correct?

11 MR. SMALLMAN: That is correct, Judge.

12 THE COURT: All the tapes were sent for
13 Ms. Taylor to hear but there was some problem with her
14 hearing all of them?

15 MR. SMALLMAN: Judge, Ms. Taylor was incarcerated
16 in Bedford Hills and immediately after our last appearance
17 here I FedExed a copy of the tapes to the facility with
18 the assistance of a counselor who worked in the jail and
19 was working with Ms. Taylor.

20 Unfortunately it had been my expectation that
21 her efforts to play the tapes for Ms. Taylor would take
22 place quickly upon their receipt. Apparently they did
23 not.

24 I have had a couple of visits with Ms. Taylor up
25 at Bedford Hills and at that point was assured she would

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still be given the opportunity to hear the tapes. It was either late last week that I got a phone call from Ms. Stanley, that's the woman at Bedford Hills, indicating that the facility did not have the capacity or capability technology-wise to play the tapes for Ms. Taylor.

Ms. Grady in turn then sent another set of tapes overnight to the facility to expedite that process. Efforts were made again earlier this week again to play those new set of the tapes, CDs. They were still -- the tapes could not be heard.

I have discussed the matter with my client. She is aware of it obviously and she is comfortable with the situation as it exists now. She doesn't remember each tape individually but assuming if they were played, she could certainly be oriented to them.

THE COURT: Based upon our discussion which we had earlier regarding the organization of this hearings, the People were going to offer collectively all of those tapes in evidence. You want it marked as a People's exhibit or Court exhibit so that I'm going to listen to all of them. I think I've listened to all of them. I want to make sure that I have.

MR. SMALLMAN: If I may, Ms. Grady and I have discussed that prior to appearing here today. It matters not to me whose exhibit it is but I would be comfortable

Proceeding

with it being a Court exhibit.

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2 THE COURT: It will be deemed Court exhibit
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5 MS. Grady, are you prepared to hand it up to the
6 Court and I will take it and put it in the file?

7 MS. GRADY: At this time?

8 THE COURT: Well, if I could get it today or by
9 Monday.

10 MS. GRADY: We will be playing them in court
11 today, I believe.

12 THE COURT: You will need them today?

13 MS. GRADY: Yes.

14 May I address what we have been discussing?

15 THE COURT: Yes.

16 MS. GRADY: There is -- these CDs, there are two
17 CDs, they are reproductions of two CDs from the People's
18 file. The thing that distinguishes them is one was
19 originally marked 10-16 and, therefore, it bears 10-16.
20 That's the CD with 88 calls on it.

21 The other CD, the original, was marked 10-23.
22 October 16 and October 23 to be clear. That second CD,
23 October 23 has 16 calls on it. Just so we know what we
24 are referring to.

25 THE COURT: All right, there are differences in

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the number of calls and differences in the dates. Is there any significance to that or is that just a --

MS. GRADY: My anticipation Mr. Renfroe will say he was provided with a copy of the CD that is marked October 16. He was given that on October 21. He did not receive the CD from October 23, which obviously was produced later.

THE COURT: For what purpose was the October 21 prepared?

MS. GRADY: Because I found it in the file. It's pretty much no more complicated than that. It contains her calls.

I want to be clear what we are offering these for. We are offering them for her to be her phone calls, her statements.

THE COURT: You may have answered this at least partially. Are the 16 part of the 88 or you don't know?

MS. GRADY: The 16 phone calls on this -- the second CD, there are a few overlaps but there are some that are unique to that disk.

THE COURT: There are some differences?

MS. GRADY: Yes.

THE COURT: Was an index created, by any chance?

MS. GRADY: I did not create an index. I could

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1 that if it's of assistance to you.

2 THE COURT: What I prefer to do is then make the
3 one that is dated October 16 with the 88 calls would be
4 Court Exhibit Number 1.

5 And the one dated October 23 with the 16 calls
6 will be Court Exhibit Number 2.

7 And I just ask that the court reporter mark them.

8 And for the purposes of today, I will return them to
9 Ms. Grady to presumably be played later.

10 MS. GRADY: The other point I wanted to make, I
11 supplied these exhibit as exhibits to my original motion
12 response at the beginning of 2015. Ms. Taylor filed a
13 motion for an evidentiary hearing February 2015. In that
14 motion she said that she had listened to the CD, the
15 one -- at least the one that had at least more than 80
16 calls on it. That was part of the basis for her moving
17 for an evidentiary hearing and because she wanted a chance
18 to explain the contents of the calls.

19 I am calling the Court's attention that it seems
20 that she heard at least Court Exhibit 1.

21 THE COURT: We can develop that at the hearing as
22 a matter of the fact.

23 Okay, anything else?

24 MS. GRADY: No, Judge. Can I do a technical
25 check before we start?

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THE COURT: Mr. Smallman, are you going to need to play any of these tapes for Ms. Taylor's testimony?

MR. SMALLMAN: I will not.

THE COURT: Why don't we wait until later. All right, court officer.

(Whereupon, a CD was marked as Court Exhibit 1 in evidence.)

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THE COURT: They have been marked and being returned. Subsequently they will have to be -- after they are used as part of the hearing they will be returned to the Court for my review.

MS. GRADY: Thank you.

THE COURT: So, let me just -- for me the critical fact finding in this hearing will be from the time that Mr. Mattei, the Assistant District Attorney at the time, revealed to defense counsel, Mr. Renfroe, that phone calls from Rikers Island in which Ms. Taylor was a participant and which were recorded had been obtained by the district attorney. From that point forward until Mr. Renfroe noting his client's disagreement with his position told Judge Collini that he was resting without calling any witnesses. Also, up to the point where there is a colloquy between Justice Collini

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1 and Ms. Taylor about her decision whether she would
2 testify.

3 In my mind that's the timeframe, things that
4 occurred during that period of time on the ultimate issue
5 of whether in this case Mr. Renfroe's defense of
6 Ms. Taylor was effective under the law. That is it,
7 Mr. Renfroe gives Ms. Taylor meaningful representation.

8 So with that, we will begin the hearing.

9 Mr. Smallman.

10 MR. SMALLMAN: If I might, Judge, I certainly do
11 not disagree with your Honor's focus on that point of the
12 prior proceedings but I would ask you to allow some basic
13 background about the time that Ms. Taylor met Mr. Renfroe
14 under the circumstances.

15 THE COURT: The nature of their relationship?

16 MR. SMALLMAN: And how it lead up to the point
17 that the Court is considering --

18 THE COURT: In terms of how they got along but
19 not as to specific issues?

20 MR. SMALLMAN: Correct.

21 THE COURT: Their relationship?

22 MR. SMALLMAN: Yes.

23 THE COURT: I will allow that.

24 MR. SMALLMAN: Thank you.

25 With that understanding I call Ms. Taylor.

Taylor-Defense-Direct

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THE COURT: Ms. Taylor, would you step up, please.

Before we begin Ms. Taylor's testimony, there are two motions that I indicated I decided. I have also written on the buck sheet on each motion.

First there had been a motion by Ms. Taylor to compel production of the audio tapes. That was denied as moot as the People had turned over that material.

Next, there was a motion for reassignment of counsel. I have reviewed that and that application is also denied. I have indicated that on the buck sheet.

THE CLERK: Ms. Taylor, raise your right hand please.

T A L I Y A H T A Y L O R, the defendant, having been duly sworn by the clerk of the court, was examined and testified as follows:

THE CLERK: Thank you.

Please state your name for the record.

THE WITNESS: Taliyah Taylor.

THE COURT: Ms. Taylor, please keep up your voice during your testimony and you don't have to speak directly into that but towards that so I can hear you.

THE WITNESS: Okay.

THE COURT: Mr. Smallman, you may proceed.

MR. SMALLMAN: Thank you.

Taylor-Defense-Direct

1 DIRECT-EXAMINATION

2 BY MR. SMALLMAN:

3 Q. Good morning, Ms. Taylor.

4 A. Good morning.

5 Q. How are you feeling today?

6 A. I'm okay.

7 Q. You understand where you are?

8 A. Yes.

9 Q. You understand what we are doing here today?

10 A. Yes.

11 Q. Have you and I had an opportunity to meet previously
12 and discuss today's proceedings?

13 A. Yes.

14 Q. Do you know a gentleman by the name of Christopher
15 Renfroe?

16 A. Yes.

17 Q. How do you know Mr. Renfroe?

18 A. He was my trial attorney.

19 Q. Can you tell, very briefly, the court the
20 circumstances under which you came to meet Mr. Renfroe?

21 A. When I met him I was at Elmhurst Psychiatric Hospital.

22 Q. Was Mr. Renfroe hired by your family?

23 A. Yes.

24 Q. You had no involvement in the hiring of Mr. Renfroe,
25 did you?

Taylor-Defense-Direct

1 A. No.

2 Q. you didn't have any ability to pay him at that point
3 I'm sure, did you?

4 A. No.

5 Q. To kind of narrow the focus of things, you were under
6 arrest for a crime at that point, correct?

7 A. Yes.

8 Q. You were being treated at that point at least in a
9 psychiatric facility?

10 A. Yes.

11 Q. Do you know how long it took between the event that
12 lead to your arrest for the trial in your matter to begin?

13 A. Approximately two years.

14 Q. And would it be fair to say you were incarcerated for
15 that entire period of time?

16 A. Yes.

17 Q. You were charged, in effect, with a homicide, right, a
18 murder?

19 A. Yes.

20 Q. How many times do you recall meeting personally with
21 Mr. Renfroe in that two year period?

22 A. I believe one time I recall at the hospital. No more
23 than two to three times at Rikers. Probably two times.

24 THE COURT: Two times at Rikers and once at the

25 hospital?

Taylor-Defense-Direct

1 THE WITNESS: Yes, that I recall.

2 Q. Would it be fair to say at the first meeting at the
3 psychiatric facility you weren't able to discuss any
4 substantive matters about your case; would that be fair to
5 say?

6 MS. GRADY: I am going to object. Aside from
7 some of the introductory questions, I am objecting to the
8 leading nature.

9 MR. SMALLMAN: Withdrawn.

10 THE COURT: Well, the question has been
11 withdrawn.

12 Q. Put a timeframe on the visits that you recall getting
13 from Mr. Renfroe at Rikers Island. For instance, how many
14 hours?

15 A. I don't believe I ever met with him for more than an
16 hour.

17 Q. Three visits for a total of say three hours?

18 A. I can't say three hours total. I know I haven't met
19 with him over an hour.

20 Q. How many hours all told do you recall meeting Mr.
21 Renfroe during the pendency of your case?

22 A. I can't give an estimate because I wasn't really
23 calculating the time. I just don't recall seeing him over an
24 hour the times I did see him.

25 THE COURT: At the times you would meet with him

Taylor-Defense-Direct

1 at Rikers it was no more than an hour, correct?

2 THE WITNESS: Correct.

3 Q. Each visit lasted an hour?

4 A. I don't think it lasted a full hour. I don't
5 remember seeing him over an hour.

6 Q. They were, to the best of your recollection, three
7 visits, is that right?

8 A. Yes.

9 THE COURT: Three visits at Rikers?

10 THE WITNESS: No, I believe two at Rikers and I
11 remember one at Elmhurst.

12 Q. Did Mr. Renfroe ever send any investigators or other
13 professional personnel from his office to meet with you?

14 A. I remember Dr. Berrill, I believe, and then he sent
15 another lady towards the trial.

16 Q. Did the lady identify herself?

17 A. I believe if I am not mistaken Pamela. She did some
18 kind of report, like an overall report of everything. All the
19 doctors' reports and experience at the hospital and family
20 history.

21 Q. Now, did you ever discuss offering testimony, your
22 testimony, at your trial?

23 A. Yes.

24 Q. And did Mr. Renfroe ever prepare you for testimony at
25 your trial?

Taylor-Defense-Direct

1 A. No.

2 Q. Did anyone ever prepare you for testimony at your
3 trial?

4 A. No.

5 Q. Did you discuss at any time with Mr. Renfroe any
6 witnesses that might be available for your defense?

7 A. Yes.

8 Q. When did you have those discussions.

9 A. Well, I had a discussion with him, I believe, in one
10 of the Rikers Island visits. Besides that I think he had knew
11 of two -- the first two witnesses that I wanted him to call
12 from the very start of the case because they were with me
13 that night and the rest of the witnesses came later after
14 my -- after the psychiatric intervention.

15 THE COURT: Let me ask you this: Did you have
16 in addition to face to face meetings with Mr. Renfroe, did
17 you have phone conversations with him during that two
18 years between your arrest and the trial?

19 THE WITNESS: I definitely remember talking to
20 him one time. I am not sure if I talked to him more than
21 that. I don't think it was more than twice on the
22 telephone.

23 THE COURT: Who were the two witnesses that you
24 had identified who had been with you that night that you
25 discussed?

Taylor-Defense-Direct

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THE WITNESS: Tricia Matthews and Maliyah Rowe.

THE COURT: Roth?

THE WITNESS: Maliyah Rowe.

you were arrested and the time you went to trial, right?

A. Yes.

Q. You were produced to the courthouse for those court appearances?

A. Yes.

Q. And was Mr. Renfroe your attorney?

A. Yes.

Q. Did he meet with you during those court appearances?

A. Sometimes, yes.

Q. About how many times, if you can recall?

A. I don't have an estimate. I have been to court a lot of times. Some of the times he was there, some of the times he wasn't.

THE COURT: I just have to clarify that. Was he always with you in the courtroom when your case was called?

THE WITNESS: No. Sometimes a representative came for him.

THE COURT: Someone came from his office or some attorney standing for him?

THE WITNESS: I believe it was some attorney he

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sent.

THE COURT: Go ahead, Mr. Smallman.

Q. Did you have a conference with Mr. Renfroe from the
pen area or downstairs in the bullpen when you had those court
appearances?

A. Sometimes.

Q. How many times altogether, if you can recall?

A. I can't recall.

Q. Can you give us an estimate?

A. I can't estimate.

Q. More than ten, less than ten?

A. I don't really remember how many times he showed
opposed to the people that he sent.

Q. Can you guess -- withdrawn.

Can you tell the Judge how many hours all told you may
have had an opportunity to conference with Mr. Renfroe about
your case?

THE COURT: In the courthouse in those two years
if you can estimate?

THE WITNESS: I wouldn't say over an hour. The
longest time that I talked to him was in trial when we
were having difficulty. Other than that they were very
brief.

Q. Okay, now, did you get or were you provided with
paperwork in your case?

Taylor-Defense-Direct

1 A. After a long time, yes.

2 Q. How did you come to get the paperwork?

3 A. I think they were turned over one day in court, if I
4 am not mistaken.

5 Q. Were they given to you promptly after Mr. Renfroe got
6 them?

7 A. I don't know exactly when he received them. I was
8 requesting them for a long time though.

9 Q. Did you write letters to Mr. Renfroe?

10 A. Yes.

11 Q. Did you get correspondence back from him?

12 A. No.

13 Q. Did there come a time when Mr. Renfroe indicated to
14 you that the case was getting ready to go to trial?

15 A. Yes.

16 Q. What were your requests of Mr. Renfroe at that point?

17 A. Well, for a long time I was requesting him to -- he
18 was supposed to subpoena a lot of the witnesses that I
19 requested him to contact.

20 Q. Anything else?

21 A. Repeat the question.

22 Q. Were there items you requested from Mr. Renfroe or
23 things that you wanted to get done prior to your trial?

24 A. Other than him contacting the witnesses, no.

25 Q. How did you get this information to Mr. Renfroe?

Taylor-Defense-Direct

1 A. Well, I told him personally and I also wrote him
2 letters in regards to my request.

3 Q. Did you and Mr. Renfroe have a good relationship?

4 A. I can't say that we did.

5 Q. Why not?

6 A. Because I didn't see him long enough to establish one
7 and a lot of the times I was trying to reach out to him and
8 didn't get a response.

9 When I was going to court a lot of the times if I sent
10 him messages I never got a response and letters never got a
11 response and I didn't see him often.

12 Q. Did you voice your concerns about this to your family
13 members?

14 A. Yes.

15 Q. What did you ask them to do?

16 A. I didn't particularly ask them to do anything. Any
17 time I expressed my concerns they so happen to be convinced
18 that he would do a good job and they kept wanting me not to
19 worry.

20 Q. Did you ask your family members to do anything

21 directly with Mr. Renfroe?

22 A. Other than ask him questions on my behalf or try to
23 find out information for me.

24 Q. When your pretrial hearings began, were you adequately
25 prepared to go forward?

Taylor-Defense-Direct

1 A. I don't really know what that means. There was no
2 preparation. I would just get brought to court. It's not like
3 he sat and prepared me.

4

5 THE COURT: Did you testify at any of the
6 pretrial hearings?

7

8 THE WITNESS: No.

9

10 Q. How much time after the hearings did the trial begin?

11

12 A. I believe soon after.

13

14 Q. About a week or thereabouts?

15

16 A. I don't remember that.

17

18 Q. Did you spend any time with Mr. Renfroe between the
19 hearings and the trial in preparation for the trial?

20

21 A. No.

22

23 Q. Did you ask to spend any time preparing?

24

25 A. I didn't really know that I needed to.

Q. Okay.

You were present for the entire duration of your trial, right?

A. Yes.

Q. You listened to the witnesses as they testified?

A. Yes.

Q. And did you discuss things with Mr. Renfroe during the trial itself?

A. I don't recall during the trial. During pretrials I

Taylor-Defense-Direct

1 did discuss things.

2 Q. What did you expect your defense was going to be at
3 your trial?

4 A. That it was 4015 mental disease defect.

5 Q. How did you expect to go about presenting your
6 defense?

7 A. Well, I would hope that the witnesses would be called
8 on my defense basically to get the story of what happened to
9 the jury.

10 Q. Who were those witnesses going to be?

11 A. I was -- well, it was supposed to be Maliyah Rowe,
12 Tricia Matthews. I was hoping for Officer Clark and Officer
13 Winfield along with a series of different doctors I was seen
14 by.

15 THE COURT: Clark and Winfield were two of the
16 officers that were first on the scene, do you remember?

17 THE WITNESS: They weren't first on the scene
18 but they were in the mental observation unit that I was
19 placed in before they sent me to the hospital.

20 THE COURT: Had they taken you to the hospital?

21 THE WITNESS: They dragged me to intake to take
22 me to the hospital -- to get me sent to the hospital.

23 THE COURT: Where did you last see Clark and
24 Winfield?

25 THE WITNESS: Building nine. Mental observation

Taylor-Defense-Direct

unit.

THE COURT: At East Elmhurst?

THE WITNESS: No, Rikers Island.

THE COURT: These correction officers or police officers?

THE WITNESS: Correction officers.

Q. Were there any other doctors that you expected to testify other than Dr. Berrill?

A. Dr. Wang and some of the doctors at Rikers Island.

Q. Did you make known to Mr. Renfroe that these were, in fact, witnesses that you wanted to use?

A. Yes.

Q. And were you adamant about that?

A. Yes.

Q. Tell the Court why you were adamant about that?

A. Because I believe that the only way for the jury to know the truth of what happened was for them to be present to explain my mental state when they seen me because that went hand in hand with my mental state the night of the accident.

THE COURT: When did you come in contact with

Dr. Wang?

THE WITNESS: Dr. Wang, Elmhurst Hospital. I think it was October.

THE COURT: He treated you in Elmhurst Hospital?

THE WITNESS: Yes.

Taylor-Defense-Direct

1 THE COURT: Thank you. Go ahead -- let me ask
2 you this: When did you first see Dr? Berrill.
3 THE WITNESS: I don't remember when I saw him
4 first.

5 THE COURT: Were you at Rikers or still
6 hospitalized?

7 THE WITNESS: No, I was at Rikers Island.

8 THE COURT: Go ahead.

9 Q. Do you recall how many times you were visited by

10 Dr. Berrill?

11 A. I believe twice.

12 Q. Do you recall how long you may have spent speaking
13 with Dr. Berrill?

14 A. I'm not sure. Maybe approximately like two hours
15 because he had like assessment, different tests that I had to
16 take.

17 Q. After you met with the doctors, did you discuss this
18 with Mr. Renfroe?

19 A. No.

20 Q. Did Mr. Renfroe ask you about the sessions with the
21 doctors?

22 A. No?

23 THE COURT: Well, had Mr. Renfroe gotten

24 Dr. Berrill to speak with you?

25 THE WITNESS: Yes.

Taylor-Defense-Direct

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THE COURT: He had arranged that?

3

Q. As you listened to all the witness's testimony throughout the trial against you, witnesses for the government, was it still your intention to advance your case in your defense?

6

A. Yes.

7

Q. Do you recall a time when the government or the

8

9 prosecution finished their case?

10

A. Yes.

11

Q. Do you recall having discussions with Mr. Renfroe about the existence of certain tapes at that point?

12

13

A. Yes.

14

Q. Tell the Judge what your position was with Mr. Renfroe

15 regarding going forward with your defense?

16

THE COURT: After she had listened to the tapes

17 or been told about them?

18

Q. After you were told about the existence of the tapes?

19

A. After I was told of the existence I let him know

20 that I would want him to play them to the jury for the jury

21 to make the decision because I didn't believe the allegations

22 that were being brought against me or what they were trying to

23 allege, I didn't believe it to be true. So I felt they should

24 play it to the jury and let them decide.

25

THE COURT: You felt it was your position that

Taylor-Defense-Direct

1 what the prosecutor was alleging that these tapes showed
2 was not right and that if the jury heard all of the them
3 they would come to that conclusion?

4 THE WITNESS: Correct.

5 Q. Were you given an opportunity to listen to the tapes?

6 A. No.

7 Q. Did you ask to hear the tapes?

8 A. Yes.

9 Q. Who did you ask?

10 A. Mr. Renfroe.

11 Q. Did you tell Mr. Renfroe that you had any --

12 withdrawn.

13 Did you make any request to Mr. Renfroe with the Court
14 at that point in time?

15 A. The only request I made with him was once he decided
16 that he was going to make his position to do a summation, he
17 called it. I told him I didn't want him to represent me if
18 he wasn't gonna call my witnesses or the doctors and he told
19 me that the Court wouldn't give me another attorney at that
20 time.

21 THE COURT: So, when that occurred you hadn't
22 heard any of these tapes?

23 THE WITNESS: No, they just submitted
24 transcripts.

25 THE COURT: Did you read the transcripts?

Taylor-Defense-Direct

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THE WITNESS: I did and I didn't see any connection to what they were alleging.

THE COURT: So you read the transcripts and then what did Mr. Renfroe tell you?

THE WITNESS: Well, he told me that he had intended to do a summation.

THE COURT: He was going to rest without putting any of your witnesses on including Ms. Rowe and Ms. Matthews and the doctors?

THE WITNESS: Correct.

THE COURT: So there would be no defense evidence and he would just sum up?

THE WITNESS: Yeah, that was his idea.

THE COURT: Go ahead, Mr. Smallman.

Q. Did you discuss offering testimony yourself without your civilian witnesses or the doctors?

A. Not without them, no.

Q. Did you have that discussion with Mr. Renfroe?

A. Well, he know that I wanted to testify but we didn't have a discussion that I would without the witnesses being called.

Q. What did you want to do at that point?

A. Well, I wanted to testify but it didn't make any sense to testify without my witnesses so I couldn't. It's not like I didn't want to.

Taylor-Defense-Direct

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Mr. Renfroe made the decision not to call any witnesses it was then your decision not to testify alone; is that correct?

THE WITNESS: I didn't feel I had any other choice.

THE COURT: Just tell me yes or no.

When he told you that he had decided as a matter of his strategy --

THE WITNESS: Uh-huh.

THE COURT: -- that he wasn't going to call any witnesses in light of the tapes, your decision then was, Mr. Renfroe you made that decision and, therefore, it's my decision that I'm not going to testify?

THE WITNESS: No, that's not how it went.

THE COURT: Okay, tell me how it went.

THE WITNESS: The Judge asked me if I wanted to testify and I told him not at this time. He told me there is not going to be another time. Then he asked me if I wanted to testify again. I told him it didn't make sense.

Then he asked me to say yes or no but I couldn't say yes or no. It's not like I didn't want to, I wanted to but to me it didn't make sense without my witnesses so I couldn't answer yes or no. It didn't make sense

Taylor-Defense-Direct

1 without the witnesses.

2 THE COURT: But you didn't take the witness
3 stand. You didn't say, Judge, despite all that, I want
4 the jury to hear from me?

5 THE WITNESS: For me it didn't make sense.

6 THE COURT: We are doing the same thing you did
7 with Judge Collini.

8 I understand what you were thinking but
9 ultimately based upon what you were thinking it was your
10 decision not to step up and testify, right?

11 THE WITNESS: It was the decision that he didn't
12 leave me any other choice.

13 THE COURT: That's how you feel. I am just
14 trying to get to the bottom line.

15 You decided for whatever reason, right or wrong,
16 that you, under the circumstances, were not going to
17 testify?

18 THE WITNESS: Correct.

19 THE COURT: Okay, go ahead.

20 Q. Was your decision not to testify made because of the
21 decisions that Mr. Renfroe made?

22 A. Because of that and the fact that he didn't step down.
23 He said they wouldn't allow me another attorney. I didn't have
24 any other choice but to stay with him. And it didn't make
25 sense to testify if he wasn't going to call my witnesses. I

Taylor-Defense-Direct

1 didn't understand why he wasn't calling the witnesses.
2

3 THE COURT: Let me frame the question a little
4 differently.
5

6 IF Mr. Renfroe said, okay, Ms. Taylor, I changed
7 my mind and I will call your witnesses and I will put
8 Doctors Berrill and Wang on the stand, you would have been
9 fine with Mr. Renfroe?

10 THE WITNESS: What do you mean, I would have been
11 fine with him?

12 THE COURT: You said you wanted a new lawyer?
13

14 THE WITNESS: Yes.

15 THE COURT: That was based upon his refusal to
16 submit your defense to the jury?
17

18 THE WITNESS: Correct.

19 THE COURT: My question is, if he had decided to
20 do so --

21 THE WITNESS: Uh-huh.

22 THE COURT: -- you would have been okay with him?
23

24 THE WITNESS: With his defending me?

25 THE COURT: His continuing to defend you?

21 THE WITNESS: Yes.

22 Q. You wanted Mr. Renfroe to present the case the way you
23 thought it was important to be presented?
24 A. Yes.

25 Q. And you wanted Mr. Renfroe to put the issues before

Taylor-Defense-Direct

1 the jury that were important to you?

2 A. Yes.

3 Q. And you wanted Mr. Renfroe to do that in spite of

4 what you heard were the contents of these phone calls,

5 correct?

6 A. Yes.

7 Q. Is that because it was your belief that you didn't do

8 anything improper in those phone calls?

9 A. Correct.

10 THE COURT: And your knowledge of the substance

11 of those phone calls was simply your conversations with

12 Mr. Renfroe, what he told you was on those tapes?

13 THE WITNESS: No, they gave me a transcript in

14 court.

15 THE COURT: But you didn't -- you read the

16 transcripts but you didn't hear the tapes?

17 THE WITNESS: Correct.

18 Q. Were you told that the transcripts were only portions

19 of the phone calls or the entire phone calls?

20 A. I don't remember them telling me any of that. I just

21 looked at what they submitted and didn't understand the

22 allegations.

23 Q. When you read the transcripts, did you recall the

24 individual phone conversations that were being referred to?

25 A. Yes.

Taylor-Defense-Direct

1 Q. Some of those phone conversations were fifteen minutes
2 in length, right?

3 A. Yes.

4 Q. Many of them in fact, right?

5 A. Yes.

6 Q. How long was the transcript that you were handed? How
7 many pages?

8 A. I don't recall how many pages or how many calls but
9 they're different than what they -- the transcripts that I
10 received and the things that were being alleged are different
11 than what was later alleged because then they were talking
12 about like static on the phone. Any time I mentioned static,
13 which to me didn't have any relevance, but they were
14 speculating over those conversations.

15 THE COURT: The question was how much material
16 did you get?

17 THE WITNESS: I don't remember how many pages.

18 THE COURT: Was it thick, was it thin?

19 THE WITNESS: It was thin. It wasn't really
20 thick.

21 Q. Did you imagine you were reading a transcript of those
22 conversations word for word or were you reading a synopsis of
23 each of those or some of those?

24 THE COURT: A summary.

25 A. What I read appeared to be word for word but I don't

Taylor-Defense-Direct

1 know if it was like a full call, part of a call. I am not sure
2 about that. But it appeared to be word for word.

3 Q. And you didn't get a transcript of each and every
4 call, right?

5 A. No, it was a few.

6 Q. Without saying what it was, did Mr. Renfroe offer you
7 his opinion about how to proceed in your trial?

8 THE COURT: There again, in this setting the
9 attorney-client privilege is waived. I think she can
10 discuss the discussion she had with her attorney about
11 strategy.

12 MR. SMALLMAN: Sure.

13 A. Repeat the question.

14 Q. Did you have a discussion with Mr. Renfroe about --
15 withdrawn.

16 Did Mr. Renfroe offer his opinion to you as to how to
17 proceed after reading these transcripts?

18 A. Yes.

19 Q. Did you agree with him?

20 A. No.

21 Q. Did you tell him that?

22 A. Yes.

23 Q. How strongly did you make your position felt?

24 A. So strongly that I wanted to speak to the Judge.

25 Q. Did you explain to him why you felt the way you did?

1 A. Yes.

2 Q. What did you tell him?

3 A. I told him that I didn't agree with what he was
4 saying. That I understood what he was saying if what was being
5 presented was accurate. To me I thought it was a scare tactic
6 and I didn't think he should go with that decision. I thought
7 it was wrong for him to go forward with the defense because
8 this was what actually happened and how could you not present
9 the truth regardless of what they are trying to allege on the
10 phone calls.

11 THE COURT: That's what you told to Judge
12 Collini?

13 THE WITNESS: That's what I told to Mr. Renfroe.

14 THE COURT: Did you ever say anything to Judge
15 Collini?

16 THE WITNESS: No. When I attempted to he said I
17 should speak through the attorney and then they would
18 revisit it later and never got back to it.

19 Q. You had never been on trial before, had you?

20 A. No.

21 Q. In fact, have you ever testified in any kind of a
22 proceeding before that?

23 A. When I got raped.

24 Q. Other than that?

25 A. No.

Taylor-Defense-Direct

1 Q. And that was as a victim, right? You didn't sit for
2 the entire trial?

3 A. Right.

4 Q. You just came and offered your testimony for that one
5 portion of the trial?

6 A. Right.

7 Q. You didn't have to have an attorney?

8 A. I am not sure if it was a trial or what it was. I
9 know I had to go in, explain what happened to some people and
10 then that was that.

11 Q. Might have been a grand jury?

12 A. I guess. I don't know.

13 Q. Okay. Other than offering your testimony at that
14 point, you didn't have to discuss strategy or the impact of
15 your testimony with anyone else, did you?

16 A. No.

17 THE COURT: Before you testified did the DA tell
18 you what his or her questions were going to be?

19 THE WITNESS: No.

20 THE COURT: Did he go over -- he or she go over
21 what your responses would be?

22 THE WITNESS: No.

23 THE COURT: So, you were just told to take the
24 witness stand and tell what happened?

25 THE WITNESS: Yeah.

Taylor-Defense-Direct

THE COURT: Go ahead.

1
2 Q. Were you told to testify truthfully?

3 A. Yes.

4 Q. Is that what you did?

5 A. Yes.

6 Q. And you were told to testify truthfully by the
7 prosecutor in that case?

8 A. I don't remember. I don't know who was who. I know I
9 had to explain what happened.

10 Q. And that's in the matter of when you were the victim,
11 right?

12 A. Yeah.

13 Q. How would you -- describe for Judge Garnett your
14 feeling towards Mr. Renfroe at this particular point in the
15 trial?

16 THE COURT: At the point where he told her he was
17 going to rest?

18 MR. SMALLMAN: I will rephrase it, Judge.

19 Q. Prior to Mr. Renfroe telling the Judge that you were
20 not going to present a defense, you had discussions with him,
21 right?

22 A. Yeah.

23 Q. Do you know where those discussions took place?
24 A. In the bottom of the courthouse. It was a different
25 one.

Taylor-Defense-Direct

1 Q. And was Mr. Renfroe upset, nervous? How would you
2 describe him?

3 A. I don't know if he was upset. He was assertive with
4 the decision that he wanted to make and he explained to me what
5 he felt about the tapes but I didn't understand it. I didn't
6 hear the tapes and I didn't believe what was being alleged on
7 the tapes.

8 He also talked about my history being brought up and I
9 didn't feel that it had any relevance to the case and it was
10 things that happened when I was a child and I explained to him,
11 that, you know, I was misguided then. How could it be used
12 against me now. I didn't understand any of that.

13 Q. Did Mr. Renfroe express any anger about you making
14 those phone calls?

15 A. He didn't really express anger, no.

16 Q. What did he express?

17 A. He seemed to be under the belief of what with the
18 People were alleging. That's what I --

19 Q. When you say "the People", you mean the government?

20 A. Yes.

21 THE COURT: What did he believe they were
22 alleging?

23 THE WITNESS: No, they were alleging I was
24 tampering with witnesses, coaching, leading and faking a
25 mental illness.

Taylor-Defense-Direct

1 Q. You did state on the tapes something to the effect
2 about giving people questions; is that right?

3 A. Yes.

4 Q. Why did you do that?

5 A. Because I felt that he needed to ask certain questions
6 for the truth to be presented and he didn't know what they
7 witnessed. He wasn't there. But like with Tricia and Maliyah
8 they were with me that night. I know what they witnessed.
9 The doctors, I know what time I seen them. So, if you
10 are going to ask -- he would have had to know the experience to
11 be able to ask the proper questions.

12 Q. Did you ask Mr. Renfroe to talk to your civilian
13 witnesses?

14 A. Yes.

15 Q. At the time that you gave them or asked that they be
16 given your written questions, did you believe Mr. Renfroe had
17 spoken to them at that point?

18 A. No.

19 Q. He hadn't spoken to them at that point, correct?

20 A. No. It's not that -- I asked him if he could present
21 those questions. It wasn't necessarily that he had to. I just
22 felt that he should for the truth to be presented.

23 Q. Well, let me ask you another way.

24 Did you give those questions to those people because
25 Mr. Renfroe wouldn't do it or didn't do it?

Taylor-Defense-Direct

1 A. No. I just read a list of questions that I created
2 that I felt that he should ask them.

3 Q. Did you suggest answers to those questions?

4 A. No.

5 Q. Did you want to know what their answers were?

6 A. No.

7 Q. Did you want to know what they were going to testify
8 at trial about?

9 A. Well, I would assume that they was testifying to what
10 they witnessed.

11 Q. And that's what you were trying to find out?

12 A. What do you mean?

13 Q. Were you trying to find out whether or not their
14 testimony was going to be exactly what they saw?

15 A. No. The questions that I asked were in relation to
16 the experience that -- like for Maliyah and Trish, they were
17 with me so I know partial of what they witnessed. I already
18 know the answers. Like if I ask you what's my name, I know
19 my name. It was just questions that I felt he should ask them
20 for the truth to be presented to the people.

21 Q. Well, let me ask you this, Ms. Taylor: The night of
22 the incident it's your position that you were not in your right
23 mind; is that correct?

24 A. Correct.

25 Q. And isn't it so that you -- even as you sit here

Taylor-Defense-Direct

1 today, you don't recall each and every event that night, do
2 you?

3 A. I don't recall everything but I recall a lot of things
4 because it was a frightening experience.

5 Q. Was it your belief that your friends may have known
6 more or remembered more than you did?

7 A. I'm not sure. Like I don't know -- from my position I
8 don't know a hundred percent what they witnessed because I was
9 witnessing something else. So, I don't really know what they
10 seen a hundred percent.

11 Q. Would it be fair to say that the questions you asked
12 them or asked that they be given were an effort to find out
13 what they knew?

14 A. Actually, no. He would have had to ask those
15 questions. I only asked basic general questions that I
16 personally knew the answer to. I didn't ask like any -- you
17 know what I mean. I don't know.

18 Q. You weren't trying to ask them any trick questions, in
19 other words?

20 A. No.

21 Q. So, tell Judge Garnett very purely and simply why you
22 wanted those questions to be given to those people?

23 A. Because I felt that the jury and also Mr. Simon's
24 family should know what happened.

25 Q. You weren't trying to suggest any answers?

Taylor-Defense-Direct

1 A. No.

2 Q. You weren't trying to get them to lie?

3 A. No.

4 Q. Did you feel as though the truth was going to help
5 you?

6 A. Yes.

7 Q. And that's what you wanted the jury to hear?

8 A. Yes.

9 Q. Was it ever your intention to suborn perjury?

10 A. No.

11 Q. Was it ever explained to you by Mr. Renfroe that the
12 case was your case?

13 A. I don't know if I remember that.

14 Q. Did Mr. Renfroe ever explain to you that it was your
15 decision ultimately that would control?

16 A. It was --

17 THE COURT: Decision as to what?

18 Q. Your decision as to how the case should be presented
19 and what evidence should be brought out at your trial?

20 A. No.

21 Q. What did Mr. Renfroe ever say to you about that?
22 A. I don't think he -- I'm not sure if he mentioned any
23 of that.

24 Q. Did there come a time when you had a disagreement with
25 Mr. Renfroe about this?

Taylor-Defense-Direct

1 A. About what?

2 Q. Strategy?

3 A. I don't know about strategy. The only time we
4 had -- we had many disagreements from the few times that I seen
5 him. Well, one in particular. But the big one was when these
6 calls were presented in and his position, what I felt should
7 be done and me not wanting him to represent me if he wasn't
8 going to do what I requested.

9 THE COURT: Ms. Taylor, up until the time that
10 the tapes were revealed, you were expecting that
11 Mr. Renfroe would call Tricia and Maliyah, Dr. Wang,
12 Dr. Berrill, and perhaps Correction Officers Clark and
13 Wintfield; is that correct?

14 THE WITNESS: At that time I didn't think that he
15 was gonna call the correction officers --

16 THE COURT: Okay, okay. Put the correction
17 officers out of that.

18 Who did you expect -- before the tapes were
19 revealed, who did you expect Mr. Renfroe was going to call
20 as part of your case?

21 THE WITNESS: Tricia Matthews, Maliyah Rowe, I
22 know he intended to call Dr. Berrill, Dr. Wang and I'm not
23 sure after that.

24 THE COURT: Was part of that -- was that going to
25 end with your testimony? Had you made a decision at that

Taylor-Defense-Direct

1 point whether you were going to testify or not?

2
3 THE WITNESS: I don't think me and him discussed
4 that. He told me it was my decision to testify. He kept
5 trying to say I didn't need to testify but I didn't
6 believe that that was true.

7 THE COURT: So everything was basically okay
8 what these tapes -- what effect these tapes would have in
9 your case; is that right?

10 THE WITNESS: I can't say strategy wise. He
11 didn't discuss strategy.

12 THE COURT: By strategy he was going to call
13 those witnesses.

14 THE WITNESS: That's what he said.

15 THE COURT: Then the tapes were revealed?

16 THE WITNESS: Uh-huh.

17 THE COURT: Then he comes back and says, listen,
18 these are damaging and I don't think you should call
19 anybody.

20 THE WITNESS: No, he didn't think I should -- he
21 told me what he was going to go do.

22 THE COURT: That's what I mean by strategy.

23 That's when you had the fundamental disagreement with him,
24 right?

25 THE WITNESS: Yes.

Taylor-Defense-Direct

1
2 with what he was going to do. You might have had a
3 dispute as to whether the correction officers were going
4 to be called but as to Berrill, Wang, Maliyah and Tricia,
5 they were going to be called as witnesses?

6 THE WITNESS: Yes.

7 Q. Did Mr. Renfroe ever tell you that it was ultimately
8 your decision to decide whether or not to call those
9 witnesses?

10 A. No.

11 Q. Did he simply tell you it was his decision not to go
12 in that direction?

13 A. Yeah. He told me what he was gonna do.

14 Q. And did he tell you he based that decision on his
15 review of the transcripts or the tapes?

16 A. I can't say that I received that. I know that it
17 came. His decision was based on the tapes but I don't know if
18 it was because of him reviewing them or not.

19 Q. What did he tell you about that, if anything?

20 A. About the tapes?

21 Q. What did Mr. Renfroe tell you about his review of the
22 tapes or the transcripts?

23 A. I'm not sure if he used Judge Garnett's word,
24 damaging. I don't remember a hundred percent what he said.

25 THE COURT: Well, did he say this is not good?

Taylor-Defense-Direct

1 It was his opinion that these tapes were damaging?
2

3 THE WITNESS: Yes.

4 THE COURT: And that they could at least

5 partially at least undermine your case?

6 THE WITNESS: That's what he was pointing to. I

7 guess so.

8 THE COURT: You may have disagreed but that was
9 his position?

10 THE WITNESS: Yes.

11 THE COURT: And did he tell you that?

12 THE WITNESS: He told me that. But I didn't --
13 from -- all right, at that point I didn't hear the tapes.

14 THE COURT: Right.

15 THE WITNESS: I just read the transcripts.

16 THE COURT: We are trying to find out what
17 Mr. Renfroe told you his impression of the tapes was?

18 THE WITNESS: Well, he pretty much told me
19 that -- he didn't think they were good. I didn't get that
20 from the transcripts so it didn't make any sense to me.
21 But more so he talked about bringing in stuff from the
22 past, which I didn't understand.

23 THE COURT: I read that in the transcript. We
24 are not going to worry about that.

25 Q. Let's try to focus --

THE COURT: Let me ask one more question.

Taylor-Defense-Direct

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I'm not going to call Tricia; I am not going to call Maliyah; and I am not going to call the doctors?

THE WITNESS: Pretty much.

THE COURT: Go ahead.

Q. Did he tell you why he was making that decision?

A. To me it was just in regards to the tapes and the testimony that will be presented but it didn't make sense to me.

Q. What did he tell you? I am not asking you what your opinion was.

A. Right.

Q. I am asking you what he told you, if you recall that?

A. I can't remember a hundred percent what he said. I just know it was because -- it was supposed to be the contents of the tapes. But from the transcripts I didn't see the connection, the relevance. I didn't understand.

Q. Did you try to explain to him what your position in those telephone conversations was?

A. Yes.

Q. Even after listening or even after hearing the transcripts, did you tell Mr. Renfroe that you still wanted to

Taylor-Defense-Direct

1 go forward with your defense?

2 A. I never heard them. I just read the transcripts and
3 yes.

4 Q. Mr. Renfroe disagreed with you?

5 A. Yeah, he had his own.

6 Q. Was it at that point you told him you were going to
7 try and get another lawyer?

8 A. Yes.

9 Q. Was that how strongly you felt about it?

10 A. Well, I told him that I don't have the money to afford
11 another attorney and the Court has to -- the Court has to
12 afford me one. And he told me they weren't at that time.
13 And that was based off the fact that he was not going to
14 present the witnesses.

15 Q. So, did you feel at that point you were stuck with
16 Mr. Renfroe?

17 A. It was either he did his summation or I represent
18 myself and I didn't know how to do that.

19 Q. Did you discuss representing yourself with
20 Mr. Renfroe?

21 A. Well, those were the only options that I had.

22 THE COURT: The question was, did you talk to him
23 about it?

24 THE WITNESS: They gave me the options.

25 THE COURT: Who gave you the options?

Taylor-Defense-Direct

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THE WITNESS: Mr. Renfroe and he had some guy
that was with him. Second opinion that the Judge --
THE COURT: Mr. Araujo?
THE WITNESS: I don't remember his name.
Q. What did they tell you about representing yourself?
A. That was just the option. Either I do the summation
or represent myself. That was the only options available.
Q. Did you think it was at all feasible to represent
yourself at that point?
A. No.
Q. What is the extent of your education?
A. Today?
THE COURT: No, then.
A. Then I had a GED.
Q. Did Mr. Renfroe offer to discuss these issues --
withdrawn.
Did you ask Mr. Renfroe for any more time to try and
resolve this issue?
A. He didn't discuss any time with me.
Q. Did you ask him to ask the Judge to give you more
time?
A. No. I didn't feel I had any decisions to make. He
was making all the decisions regardless of what I wanted.
MR. SMALLMAN: Thank you very much, Ms. Taylor.
I have nothing further.

Taylor-Defense-Direct

1

2 THE COURT: Ms. Taylor, before I give Ms. Grady a
3 chance to talk to you, question you, I have listened to
4 some of the tapes and at one point I recall you were
5 talking to -- I don't know if it was Tricia or Maliyah
6 and you said words to the effect, remember to tell them
about what happened like a month ago or two weeks ago.

7 Do you remember that?

8 THE WITNESS: I would have to hear the call.

9 THE COURT: You have no recollection of asking
10 them to recall events that had occurred prior to the car
11 accident?

12 THE WITNESS: Well, I was suffering before the
13 car accident, yes.

14 THE COURT: Getting them to testify to
15 some -- whether it was psychotic or emotional breakdown
16 that you had suffered prior to the automobile accident in
17 the past?

18 THE WITNESS: Uh-huh.

19 THE COURT: Do you recall talking to them about
20 that?

21 THE WITNESS: Yes.

22 THE COURT: And what was your purpose in telling
23 them to -- there again, my recollection is that you
24 would either say to somebody, tell Maliyah or do you
remember -- remember to say about my anxiety attack or my

Taylor-Defense-Direct

breakdown two months ago?

THE WITNESS: One, I would have to hear the call to know exactly what you are speaking about. But if I ever asked then to speak about prior events before the accident is because I was suffering before that night.

THE COURT: Okay.

THE WITNESS: So it would have been relevant to my state of mind or to the breakdown.

THE COURT: To your psychiatric defense?

THE WITNESS: Right.

THE COURT: Okay, Ms. Grady, go ahead.

MR. SMALLMAN: Judge, may I step up for a quick second, please.

THE COURT: Sure, step up.

(Whereupon, there was a discussion held off the record.)

THE COURT: Ms. Taylor, we are going to break.

Mr. Smallman has to take a phone call.

We are going to sit in place.

(Whereupon, there is a pause in the proceeding.)

THE COURT: Okay, Ms. Taylor, listen to the questions asked by Ms. Grady. If they can be answered yes or no, please answer them yes or no okay.

THE WITNESS: Okay.

THE COURT: Go ahead, Ms. Grady.

Taylor-Defense-Cross

1 CROSS EXAMINATION

2 BY MS. GRADY:

3 Q. Good afternoon, Ms. Taylor.

4 A. What do you hope to obtain from this hearing?

5 Q. Uh-huh.

6 A. Well, that the truth be presented.

7 Q. Don't you hope to obtain a vacatur of your conviction?

8 A. Prayerfully so.

9 Q. You said before you had obtained your GED by the time
10 of 2006?

11 A. Yes.

12 Q. Isn't it true you worked at Banana Republic?

13 A. Yes.

14 Q. In what capacity?

15 A. I was a lost prevention agent.

16 Q. Did you also work as a security guard for SJS
17 Security?

18 A. Yes.

19 Q. From 2000 to 2003?

20 A. I believe so.

21 Q. And you got a license to do that; isn't that correct?

22 A. Yes.

23 Q. Briefly describe your family?

24 MR. SMALLMAN: Relevance. Objection.

AP

Taylor-Defense-Cross

1 THE COURT: Just briefly. I will allow it.

2 Overruled.

3 Q. Let me be more clear. Your father is deceased; is
4 that correct?

5 A. Yes.

6 Q. You have a mother?

7 A. Yes.

8 Q. What is your mother's name?

9 A. Regina McClean.

10 Q. You have a brother?

11 A. Yes.

12 Q. What's his name?

13 A. Baydr Taylor.

14 Q. Spelled B-A-Y-D-R?

15 A. Yes.

16 Q. Same last name?

17 A. Yes.

18 Q. Does Baydr have a son?

19 A. Yes.

20 Q. His son is Kaysean?

21 A. Yes.

22 Q. Spell that?

23 A. K-A-Y-S-E-A-N.

24 Q. In 2002 you obtained custody of Kaysean; is that
25 correct?

Taylor-Defense-Cross

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of her lawyer.

5

MS. GRADY: I will move on.

6

THE COURT: Sustained.

7

Q. You had never prior to the crime been hospitalized for mental illness; isn't that correct?

8

Q. You had never received any treatment for psychiatric disorders; isn't that correct?

9

A. Correct.

10

Q. You had gone to some counseling but not for psychiatric disorders?

11

A. Correct.

12

Q. You had never been diagnosed with any psychiatric disorders, is that right, prior to the arrest?

13

A. No. I think I might have had some diagnosis as a child. I can't remember what it was.

14

Q. It wasn't for psychiatric disorders, isn't that correct?

15

A. I don't think so. I was like starting being seen after my father died.

16

Q. Were you traumatized after your father died?

17

MR. SMALLMAN: Objection.

AP

Taylor-Defense-Cross

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2 father's death?

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4 THE WITNESS: I believe so.

5 Q. Now, during direct examination you said that the defense you intended to present was 4015. Are you referring to

6 the Criminal Procedure Law when you say 4015?

7 A. Yes.

8 Q. Section 40 point 15 of the CPL; is that right?

9 A. Yes.

10 THE COURT: Well -- go ahead.

11 Q. What was the course in your defense?

12 A. What do you mean by that?

13 Q. When you say 40.15, your defense, was it not that you were mentally ill at the time of the crime?

14 A. Yes.

15 Q. What was that mental illness at the time of the crime?

16 A. What was the mental illness?

17 Q. Yes. What was your diagnosis?

18 A. I was diagnosed with three different things at that time; bipolar mania, schizoaffective disorder and schizophrenia. I am not sure which one was the actual diagnose or if they were seeing symptoms of all.

19 Q. When did the symptoms of those mental illnesses first begin?

20 A. The accident happened in October. So it was like a

Taylor-Defense-Cross

1 couple of weeks before the incident that psychiatric symptoms

2 started to manifest.

3 Q. When you say psychiatric symptoms, can you be more

4 specific?

5 A. Yeah. Seeing things, hearing things. I guess

6 distorted delusional beliefs they call it.

7 Q. Distorted you mean distorted thinking?

8 A. That's what they considered it.

9 Q. Those began two weeks before the incident?

10 A. It was weeks. I can't tell you exactly. I know I was

11 suffering weeks before that day.

12 Q. Isn't it true that during this same period of time you

13 were also taking Ectasy?

14 A. Yes.

15 Q. You were at least taking Ectasy from at least the

16 previous summer; is that right?

17 A. Yes.

18 Q. Did you use any other controlled substances?

19 A. Marijuana, I don't think alcohol as a controlled

20 substance and cocaine.

21 Q. But you were consuming alcohol; is that what you

22 mean?

23 A. Yeah. Yeah, I was drinking. I am saying I don't

24 think it's a controlled substance.

25 THE COURT: Were you drinking a lot or just a

Taylor-Defense-Cross

1 little?

2 THE WITNESS: I guess it depends on the time.

3 Q. Let's focus on those two weeks, were you consuming a

4 lot of alcohol during that time?

5 MR. SMALLMAN: Objection to two weeks. She said

6 a period of two weeks.

7 THE COURT: She said I believe a couple of weeks

8 from the onset of her symptoms. Overruled.

9 In the two weeks before the accident were you

10 using or drinking a lot of alcohol?

11 THE WITNESS: I can't say heavily. I don't

12 think.

13 THE COURT: Go ahead.

14 Q. All right, your symptoms began weeks -- a number of

15 weeks before the accident. How long did your symptoms last?

16 A. Months after the accident. When I left the hospital

17 they still said I was delusional. So, I don't know exactly

18 when I became more sound or stable.

19 Q. After you were arrested you were treated at Elmhurst

20 and other places?

21 A. Rikers Island first and then Elmhurst and then back to

22 Rikers Island.

23 THE COURT: You were given medication?

24 THE WITNESS: Yes.

25 THE COURT: That medication helped you?

Taylor-Defense-Cross

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4 again?

5 better but like I was still under treatment then.

6 THE COURT: The medicine helped you?

7 THE WITNESS: Yes.

8 Q. When you left the hospital and you went back to Rikers

9 Island, correct --

10 A. Uh-huh.

11 Q. -- were you put in general population?

12 A. No.

13 Q. Were you in the mental observation unit?

14 A. Yes.

15 Q. Did you stay there until the end of the trial --

16 A. Yes.

17 Q. -- until you were sentenced.

18 While I am thinking of it, you said GP, does that

19 stand for general population?

20 A. Yes.

21 Q. So this defense -- if the jury had accepted the

22 defense, what would have been the result?

23 A. There was possibilities that it could have been

24 acquittal or I could have got convicted of all of the charges,

25 some of the charges.

AP

Taylor-Defense-Cross

1 Q. What if they had accepted the defense of mental
2 disease or defect?

3 A. Then I would have went to the mental hospital.

4 Q. Were you worried about that?

5 A. Was I worried about it?

6 Q. Being committed to the mental institution?

7 A. No.

8 Q. Why not?

9 A. Why would I be worried about that?

10 THE COURT: Were you worried or not?

11 THE WITNESS: No.

12 THE COURT: Okay.

13 Q. How long did you expect to have to stay in a mental
14 hospital?

15 A. I didn't know how long I would have to say there but
16 according to the law library research that I found you have to
17 get evaluated a lot of times and then if they deem you not a
18 threat to society or yourself then you go home.

19 Q. Did you hope to pass such an examination?

20 A. Yes.

21 Q. I had asked you about gaining custody of your nephew.
22 You had no signs of mental disease or defect at that time; is
23 that correct?

24 A. No.

25 Q. That was in 2002?

Taylor-Defense-Cross

1 A. Right.

2 Q. You had no signs of mental disorder at the time you
3 got a license to be a security guard?

4 A. Correct.

5 THE COURT: When was that?

6 MS. GRADY: 2002, is that right?

7 THE COURT: Is that when you got your license?

8 THE WITNESS: I think so.

9 Q. As part of the preparing for this defense you spoke to
10 Dr. Wang and also to Dr. Berrill, correct?

11 A. Yes.

12 Q. These interviews were conducted after you committed
13 this crime; isn't that correct?

14 A. Yes.

15 Q. As you say, they came to the conclusion you suffer
16 from schizoaffective disorder. Wasn't that based exclusively
17 on what you told them?

18 A. No -- well, some of it was the experience and some of
19 of it was what I was suffering at the time.

20 Q. At what time?

21 A. At the time of the hospital. At the time of the
22 Rikers Island. Well, it was the same thing the night of the
23 accident but when Dr. Wang saw me it was in the hospital and
24 when the doctors at Rikers Island seen me it was at Rikers
25 Island.

Taylor-Defense-Cross

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3 again?

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6 capacity did you see him again after?

7

8 THE WITNESS: No. I saw the doctors at Rikers

9 Island.

10 THE COURT: As far as you know, did Dr. Wang

11 speak to Maliyah or anybody else in your family?

12 THE WITNESS: I don't know if he spoke to

13 Maliyah. I believe he might have spoke to my mom. I am

not sure if he spoke to anybody else.

14 THE COURT: Go ahead.

15 Q. You also had spoken to an expert by the People; isn't

16 that right, Dr. Schnieder?

17 A. Yes.

18 Q. Lionel Schnieder. Did Dr. Schnieder come to a

19 different diagnosis?

20 A. Yes.

21 Q. What was that? Wasn't it antisocial personality

22 disorder?

23 A. Yes.

24 Q. And that disorder does not involve any delusions or

25 hallucinations; isn't that right?

Taylor-Defense-Cross

1 A. I have no knowledge of what that disorder is.

2 Q. Did he also come to the conclusion that you were

3 malingering?

4 A. Yes.

5 Q. Do you know what that word means, malingering?

6 A. Yes, I looked that up.

7 Q. What does that mean, as you understand it?

8 A. As I understand it, lying or like faking.

9 Q. He believed you were doing that, faking a mental
10 illness because you thought it would help your case; isn't that
11 right?

12 A. No. I don't know why he believed that.

13 Q. Isn't that why one would malingering?

14 MR. SMALLMAN: Objection.

15 THE COURT: Overruled.

16 A. I have no clue.

17 THE COURT: Let me ask you a question.

18 You and Mr. Renfroe had a copy of Dr. Schneider's
19 report before the trial began; is that correct?

20 THE WITNESS: You talking to me?

21 THE COURT: Yeah.

22 THE WITNESS: I'm --

23 THE COURT: Did you know about Dr. Schneider's
24 conclusion before the trial began that there would be a
25 dispute between him and Dr. Berrill?

Taylor-Defense-Cross

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2 THE WITNESS: Yes.

3

4 Q. So, drawing your attention to October 6, 2008, you proceeded to trial; is that right?

5 A. I don't remember the date.

6 Q. That was in front of Judge Collini in a jury; is that

7 right?

8 A. I remember going to trial. I don't recall the day.

9 THE COURT: But it was Judge Collini?

10 THE WITNESS: Yes.

11 Q. And on that date, on October 6, prior to jury selection, you were offered a plea offer by the People; isn't that right?

12 A. Yes.

13 Q. Fifteen years; is that correct?

14 A. Yes.

15 Q. Fifteen years; is that correct?

16 A. Yes.

17 Q. You rejected that offer in favor of going to trial; is that right?

18 A. Yes.

19 Q. Why did you reject that offer?

20 A. Because I felt it was unfair considering the circumstances. If it was an accident I didn't understand why I should take fifteen years.

21 Q. Did you think about the possible strength of the People's case?

22

Taylor-Defense-Cross

1 A. I didn't think about the strength of the People's
2 case. I just knew what happened.

3 Q. Didn't you think that if you were going to have
4 fifteen years you would want to put the People to their burden
5 of proof first?

6 MR. SMALLMAN: Objection.

7 THE COURT: Sustained.

8 A. I didn't know any of that.

9 THE COURT: Objection. The answer is stricken.

10 Q. Was that your decision to reject the fifteen years?

11 A. Yes.

12 THE COURT: Did Mr. Renfroe recommend it to you?

13 THE WITNESS: Yes.

14 Q. How strongly did Mr. Renfroe recommend the fifteen
15 years?

16 A. I can't say strongly. He told me that he thought it
17 was best. But his decision didn't make sense because it was
18 solely --

19 THE COURT: He recommended it to you and you
20 rejected it?

21 THE WITNESS: Yes.

22 THE COURT: Let's go on.

23 Q. So then you proceeded?

24 A. Yes.

25 Q. The next order of business was a Sandoval hearing;

Taylor-Defense-Cross

1 isn't that right?

2 A. I know we had one. I don't know if that was the next
3 order of business.

4 Q. Judge Collini determined if you testified you could
5 be cross examined about certain prior crimes; is that
6 correct?

7 A. Yes.

8 Q. It was limited that the People would be allowed to ask
9 you if you were convicted of a felony in 2000 and a misdemeanor
10 in 2000?

11 A. Yes.

12 Q. The People had offered and wanted to bring out in
13 their case the facts underlying one of your previous
14 convictions; isn't that right?

15 A. I believe so.

16 Q. The Judge told them no?

17 A. Correct.

18 Q. The facts of that underlying conviction was that you
19 had previously been involved in an offense of intoxicated
20 driving?

21 A. Yes.

22 Q. However, wasn't the Judge's ruling if the doctors
23 testified the People would have been allowed to ask them about
24 that prior case?

25 A. I believe so.

Taylor-Defense-Cross

1 Q. And the facts underlying that prior case?

2 A. I believe so.

3 Q. Isn't it true that prior case of drunk driving was
4 very similar to this case?

5 A. Incorrect.

6 Q. No, you don't feel that it was?

7 A. No.

8 Q. That prior case was in 2000; is that correct?

9 A. Right.

10 Q. That case involved you being intoxicated on what you
11 call moonshine; is that right?

12 A. It was Devil Springs. I don't know if it was
13 moonshine.

14 Q. It was alcohol?

15 A. Yes.

16 Q. In that prior case while you were driving intoxicated
17 there was no issue of you being mentally ill at that time; is
18 that right?

19 A. No.

20 Q. You heard the Rikers Island -- at least some of the
21 Rikers Island calls this morning?

22 A. Yes, some of them.

23 Q. You recognize your voice in those calls?

24 A. Yes.

25 Q. You recognize the voices of people on those calls as

Taylor-Defense-Cross

1 family members and friends?

2 A. Yes.

3 THE COURT: Including Maliyah and Tricia?

4 THE WITNESS: Yes.

5 Q. And a few of the calls you are speaking to someone
6 you call her Boo, that's your nickname for Tricia Matthews; is
7 that right?

8 A. I'm not sure. I was talking to a lot of different
9 women at that time.

10 THE COURT: Did you call Tricia Boo?

11 THE WITNESS: I don't believe that was ever a
12 name I called her.

13 Q. Who did you call Boo?

14 A. I would have to hear the call to know who I was
15 referring to.

16 THE COURT: You refer to more than one person as
17 Boo?

18 MR. SMALLMAN: Judge, can we step up.

19 THE COURT: Sure okay.

20 (Whereupon, there was a discussion held off the
21 record.)

22 THE COURT: Ms. Taylor, you refer to a number of

23 people as Boo; is that correct?

24 THE WITNESS: I can't say. I'm saying that I was
25 talking to different women at that time so I am not sure

Taylor-Defense-Cross

1 who I was speaking to when I said that word.
2

3 THE COURT: Let's go. Let's move on.

4 Q. You also referred to Care Bear and spoke to someone
5 named Care Bear. That was your nickname for your nephew?
6

7 A. No.

8 Q. Who is Care Bear?

9 A. My ex-girlfriend.

10 Q. Care Bear is your ex-girlfriend?

11 A. Yes.

12 THE COURT: Is it Tricia or Maliyah?

13 THE WITNESS: That's my ex-girlfriend.

14 THE COURT: It's not Tricia or Maliyah?

15 THE WITNESS: No.

16 Q. And Lee Lee, is that your Aunt Lissa?

17 A. Yes. Yes.

18 Q. And in the calls when you say -- there is more than
19 one call where you say, quote, if I'm gonna blow, I'm gonna
20 blow my way, closed quote.

21 Did you mean if you were going to lose at trial you
22 wanted to do it with your defense?

23 A. Yes. If I was going to blow then let it be -- once
24 the truth is out there whatever the jury decides they decide.
25 So, if I blow with that, then I'm fine with that if that was
the case.

Q. By the word "blow" you meant be convicted?

Taylor-Defense-Cross

1 A. Lose.

2 Q. By "my way" you meant with the defense you crafted?

3 MR. SMALLMAN: Objection to the word.

4 A. The way it happened --

5 MS. GRADY: Withdrawn.

6 Q. The defense that you desire to have presented?

7 A. This is lawyer language when you say the defense to
8 me.

9 THE COURT: It's not lawyer language.

10 By meaning you were going to go down your way,
11 you wanted the correction officers to be called, you
12 wanted Tricia to be called, you wanted Maliyah to be
13 called, and you want Doctors Wang and Berrill to be
14 called; is that right?

15 THE WITNESS: Right.

16 Q. As the trial got underway you were generally happy
17 with Mr. Renfroe's performance; is that right?

18 A. Maybe at some stages.

19 Q. For example, were you pleased that he was doing a good
20 job cross-examining the People's witnesses?

21 A. I believe so.

22 THE COURT: At any time from the time he began
23 representing you up until the time of the trial had you
24 asked for another lawyer?

25 THE WITNESS: No.

Taylor-Defense-Cross

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the time that the tapes were revealed, had you asked for another lawyer?

THE WITNESS: No. At that point I didn't know I could.

THE COURT: Everything was going fine at that point; is that correct?

THE WITNESS: Incorrect. I didn't know I could ask for another lawyer.

THE COURT: What would it cost you if you asked? If Mr. Renfroe was to call all the witnesses that you wanted, why would you want another lawyer?

THE WITNESS: Before that stage we had a lot of complications. If I knew I could get another lawyer then I would have.

THE COURT: Go ahead.

But did you tell this to Judge Collini?

THE WITNESS: I attempted to.

THE COURT: I am saying did you?

THE WITNESS: No.

THE COURT: Go ahead.

Q. You are now speaking about your feelings about

Mr. Renfroe prior to the beginning of the trial; isn't that right?

A. Right.

Taylor-Defense-Cross

1 Q. But after October 6, after he started cross-examining
2 witnesses and actually doing his job where you could see him
3 doing his job, isn't it true you became more satisfied with his
4 performance?

5 A. I think that he did good in that area. I can't say if
6 I was satisfied with the performance. I don't really
7 understand that.

8 THE COURT: Let's move on please.

9 Q. I have one more question.

10 Were you satisfied with the cross examination of the
11 People's witnesses that you were beginning to think that you
12 might not need to testify?

13 A. I'm not sure about that. My family was trying to
14 convince me that I didn't need to if the doctors and the
15 witnesses were called.

16 Q. What reasons was your family giving you not to
17 testify?

18 A. They was talking about them being able to ask me
19 things about the past and stuff like that.

20 Q. And that would not have been good for your case if
21 they asked about your past; isn't that right?

22 A. That's what they said.

23 THE COURT: Do you think it would be good if the
24 jury heard you had a felony conviction and misdemeanor
25 conviction?

Taylor-Defense-Cross

1
2 the accident.

3
4 THE COURT: If they told the jury you may
5 may take into consideration that she has a prior felony
6 and misdemeanor conviction, you think that would be
7 good?

8 THE WITNESS: I think they would have to rule on
9 this particular case, the circumstances in this particular
10 case.

11 THE COURT: In terms of believing what you would
12 have said, do you understand the jury would be able to
13 consider the fact that you had prior criminal
14 convictions?

15 THE WITNESS: Yeah, I would think that made a
16 difference to me.

17 THE COURT: You think that would be good if they
18 would hear that you had prior convictions?

19 THE WITNESS: I don't think having prior
20 convictions is good period. But I don't think -- I don't
21 believe that would be their position.

22 THE COURT: Okay.

23 THE WITNESS: From the past they would have to --

24 THE COURT: Mr. Renfroe had discussed with you
25 that that would come up if you chose to testify in this

Taylor-Defense-Cross

1 case?

2 THE WITNESS: Yes.

3 THE COURT: Okay.

4 MS. GRADY: I'm going to play a call for you.

5 THE COURT: Is there a way to reference this by
6 time and date or by exhibit?

7 MS. GRADY: Yes, definitely.

8 The call I am going to play is on Court
9 Exhibit 1.

10 THE COURT: That's the one with the 88 phonecalls
11 on it?

12 MS. GRADY: Yes, marked October 16. The call is
13 dated 9-22.

14 THE COURT: 9-22-06?

15 MS. GRADY: I believe '08.

16 THE COURT: Zero eight, okay.

17 MS. GRADY: The code is 20080922100316.

18 THE COURT: Does that give us -- I see 9-22-08 as
19 part of it. Is the second part a time?

20 MS. GRADY: The call ended at 10:13. So, the
21 date modified on the file is 10:13 a.m.

22 THE COURT: How long is this call approximately,
23 do you recall?

24 MS. GRADY: I am going to start playing from the
25 end of the call at minute five and thirty-five seconds.

Taylor-Defense-Cross

1 THE COURT: Go ahead.

2 (Whereupon, the tape is played.)

3 MS. GRADY: I will let it start and let her hear

4 her voice. I am pausing it.

5 Q. Ms. Taylor, do you recognize your voice on that call?

6 A. Yes.

7 (Whereupon, the tape is played.)

8 Q. I am stopping it. That's the end of the call. It got
9 cut off.

10 MS. Taylor, did you hear the content of that call?

11 A. Uh-huh.

12 Q. You said you would love to put bread in your account,
13 does that mean put money in your prison account?

14 A. Correct.

15 Q. If you had been in GP or general population you would
16 have been able to get a normal job; isn't that correct?

17 A. Correct.

18 Q. And receive money?

19 A. Yes.

20 Q. But you didn't want to be in GP because being in the
21 mental unit was good for your case; isn't that right?

22 A. Correct. But they wouldn't allow me to anyhow.

23 Q. Well, my question is --

24 THE COURT: Please answer the question. If

25 Mr. Smallman thinks there is an explanation he will ask

Taylor-Defense-Cross

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you.

Q. Whether they allowed you there or not, you desired to stay in the mental unit because it was good for your case; isn't that right?

A. Yes.

Q. Could you see how that could appear to look like you were faking?

A. No. I think if you want to speculate then you could.

But no I wouldn't receive that from that.

Q. And there are other calls where -- actually I would like to play another call on the same CD?

THE COURT: Please reference it.

MS. GRADY: The call is from October 4. The number is.

THE COURT: Zero eight?

MS. GRADY: Yes. Yes. I believe they are all from September to October of 2008. October 4. The number -- the file number is 200810041621252.

(Whereupon the tape is played.)

Q. Just to interrupt, do you recognize your voice on this call as well?

A. Yes.

MS. GRADY: Judge, I am going to forward it to a minute twelve of the call and play to minute 1440 of the call.

Taylor-Defense-Cross

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questions with regard to that call.

4

First, who were you speaking to there?

5

A. My brother.

6

Q. Baydr?

7

A. Yes.

8

Q. You were telling him about what Mr. Renfroe had

9

explained to you about the charges, right?

10

A. Correct.

11

Q. So Mr. Renfroe did explain the charges to you, right?

12

A. Well, he explained that part but I looked up the

13

charges in the law library so I already knew what they were.

14

Q. He explained what you could face after trial; is that

15

right?

16

A. Yes.

17

Q. He explained about the fifteen years; isn't that

18

right?

19

A. Yes.

20

Q. He said you were the boss?

21

A. That's what he said.

22

Q. He said, you're the boss with regard to taking the fifteen years or not?

23

A. I don't know if it was in regards to that. That was just what he said.

24

AP

(Whereupon, the taped is played.)

Taylor-Defense-Cross

1 Q. Okay. Second, you said towards the beginning of the
2 call there, from the portion of the call, I know how to get out
3 of the hospital?

4 A. Correct.

5 Q. So, you were confident that even if you had been found
6 not guilty by reason of insanity and committed to a hospital,
7 you were confident that you knew how to get out of the
8 hospital?

9 A. It wasn't the confidence, it's what I learned at the
10 law library. It's procedures they have to follow.

11 Their idea was that I would never get out because the
12 judge would not release me. That's the belief that they had.
13 They wanted me to take the fifteen. They didn't want me to go
14 forward with the defense because they thought if I went to the
15 hospital the Judge would never release me. That's incorrect
16 information.

17 It's procedures that have to be done. They have to do
18 examinations and if the doctor -- if the Judge didn't sign off
19 then I could appeal it. So, they just can't keep me in there
20 for the rest of my life if I am no longer a danger to myself
21 and society.

22 Q. So you knew what the test was to get out of the
23 hospital; is that right?

24 A. I don't know what the test was. I just read they have
25 to do examinations.

Taylor-Defense-Cross

1 Q. And the third thing I want to ask you, in the call you
2 were telling your brother that you were fine when you took the
3 drug; isn't that right?

4 A. I said that I was aware. I don't know about fine.

5 Q. Isn't that --

6 THE COURT: Are you talking about the drugs that
7 she took the evening of the accident or that she had been
8 prescribed at the hospital?

9 THE WITNESS: No, they are talking about the
10 drugs the night of the accident.

11 Q. You were talking about the time that you consumed
12 Ecstasy that night. You knew you had a licensed driver to drive
13 you around that night?

14 A. We were talking about awareness at that part of the
15 call, whether I was consciously aware or not.

16 Q. And that you were -- in your words on the call, that
17 you were fine when you took the drug?

18 A. I just heard the call but I don't remember saying
19 fine. I know it was that I was aware when I took the drug.

20 Q. Aware of your surroundings, aware that you had a
21 licensed driver?

22 A. I don't know, aware of the fact that I was taking the
23 drug. Meaning in that reality I knew what was transpiring.

24 Q. Okay. Did your witnesses ever have any conflicts with
25 your version of events?

Taylor-Defense-Cross

1 A. Conflicts?

2 Q. Did your witnesses ever have a different account of
3 what happened than what you wanted them to present?

4 MR. SMALLMAN: Objection to what she wanted.

5 THE COURT: Sustained. Sustained to the form of
6 the question.

7 Q. You said on direct that you knew what you wanted each
8 witness to testify to; isn't that right?

9 A. I know from my experience and the part they were with
10 me I know what they experienced from the studio to my
11 grandmother's house. I don't really know their account of what
12 transpired in the car. Well, I learned that later.

13 THE COURT: At any point during your
14 conversations with your witnesses, did there come a time
15 when their recollection of what happened that night was
16 different from yours?

17 THE WITNESS: Our recollection is only different
18 of what transpired inside the car.

19 THE COURT: How about recollections about what
20 had happened in the past before the day of the accident?

21 THE WITNESS: No, we don't have conflicts but
22 differences. They have what they witnessed. I know what
23 I experienced.

24 THE COURT: Did you ever during these
25 conversations correct them?

Taylor-Defense-Cross

1 THE WITNESS: No.

2 THE COURT: As to what you remembered as opposed

3 to what they remembered on the day of the accident?

4 THE WITNESS: No.

5 THE COURT: Did you ever correct them on what
6 you remembered had happened in the past as opposed to
7 what they remembered happened in the past before the
8 accident?

9 THE WITNESS: No.

10 MS. GRADY: Judge, I would like to play a call
11 from CD number two. Court Exhibit Number 2.

12 THE COURT: All right.

13 MS. GRADY: This call is from October 19, 2008,
14 with a date modified time of 11:26 a.m. The file name is
15 2008101911147.

16 THE COURT: All right.

17 (Whereupon, the tape was played.)

18 MS. GRADY: I am sorry, that may have been a
19 different call than I was hoping it would be. I may not
20 be able to.

21 Q. Let me ask you, on any of these calls -- withdrawn.

22 On any of the conversations that you had during that
23 time as you reflect back, did you have a conflict with the
24 idea that Tricia had told Mr. Renfroe that you pushed her
25 out of the car that night and that was not how you remembered

Taylor-Defense-Cross

1 it?

2 A. It wasn't really a conflict. I was just getting
3 everybody's recollection. Like Maliyah had one, Tricia that
4 had one, Kaysean and baby had one, and I didn't clearly
5 really have one because I didn't know -- then I didn't know
6 what transpired. So, I have Tricia's version of what
7 transpired. Maliyah has a different one because she existed
8 the car before Tricia and then the baby had a different one.

9 THE COURT: Who is the baby?

10 THE WITNESS: Kaysean, I am sorry.

11 THE COURT: How old was Kaysean?

12 THE WITNESS: Seven.

13 Q. How old was he when you got custody of him?

14 A. Two.

15 Q. How old were you when you got custody of him?

16 A. I believe 18.

17 Q. You were 18 when you got custody of Kaysean?

18 A. I believe so.

19 Q. During your discussions after trial do you remember
20 feeling mad that Tricia was telling your lawyer that you beat
21 her up and that's why she got out of the car?

22 THE COURT: That she was feeling bad?

23 MS. GRADY: Mad.

24 A. No, I wasn't mad about anything. That wasn't Tricia.

25 Q. That Tricia was telling your lawyer --

Taylor-Defense-Cross

1 A. No.

2 THE COURT: Let Ms. Grady finish.

3 THE WITNESS: Okay.

4 Q. Do you recall feeling mad that Tricia was telling your
5 lawyer that you had beaten her up and that's why she got out of
6 the car?

7 A. No.

8 Q. Do you remember hearing that's what she was telling
9 your lawyer?

10 A. That I beat her up, Tricia, no.

11 Q. What about that Tricia said, I pushed her out the
12 car?

13 A. That's what they -- that's what she said transpired.

14 I didn't remember that so I didn't have a position on that.

15 THE COURT: You couldn't tell if that was right
16 or wrong because you had no memory?

17 THE WITNESS: Correct.

18 Q. Fast forward to your decision not to testify.

19 You were not happy about not testifying, right?

20 A. Right.

21 Q. However, wasn't it your decision?

22 A. What do you mean not to testify?

23 Q. Well, going back to the rejection of the plea offer.

24 You weren't happy about going to trial and facing potential
25 murder charges, right?

Taylor-Defense-Cross

1 A. Was I happy about it?

2 Q. Correct.

3 A. No.

4 Q. That wouldn't have been what you wanted to do, right?

5 You wouldn't want to be on trial for murder, right?

6 A. Correct.

7 Q. And you wouldn't want to accept fifteen years, would

8 you?

9 A. No. For an accident, no.

10 Q. So, you made your decision between two bad choices;

11 isn't that right?

12 A. No -- rephrase because you are losing me.

13 Q. Okay. If you had a choice between not going to trial

14 at all and just walking out the door --

15 MR. SMALLMAN: Objection to the hypothetical

16 question.

17 THE COURT: Sustained.

18 Q. Let me ask this way: Was it an easy decision to

19 reject the fifteen years and go to trial instead?

20 A. Firmly standing on my belief, yes.

21 Q. You wanted to go to trial and stand trial for

22 murder?

23 A. It's not to stand trial for murder. That's what I

24 am being accused of. But if I know the truth and I know was

25 an accident then I would fight to defend and present that.

Taylor-Defense-Cross

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THE COURT: You knew the risk and you still wanted to go forward?

THE WITNESS: Yes.

THE COURT: You knew the risk that you could be convicted and you could face up to twenty-five to life?

THE WITNESS: Yes.

THE COURT: And knowing that, you still wanted to proceed. That was your decision?

THE WITNESS: Yes.

THE COURT: And part of that decision was your desire to testify; is that correct?

THE WITNESS: That and the testimony of my witnesses, yes.

THE COURT: If your witnesses testified the way you wanted them to you would have testified, right?

THE WITNESS: It's not the way I wanted them to. If they had been called to testify, yes, because that's the only way the truth could get out.

THE COURT: There again, if, for example, the case wasn't in exactly the way you wanted it to go in, the correction officers, Maliyah, Tricia and the doctors, you would have testified?

THE WITNESS: Yeah.

Q. Then that's not what transpired. You're witnesses were not going to be called, which was not your choice.

Taylor-Defense-Cross

1 Once that was the case, that your witnesses were not going
2 to be called, isn't it true that you then decided not
3 testify?

4 A. It wasn't a decision that I made. To me it didn't
5 make any sense to testify without them.

6 THE COURT: That's your reason but your decision
7 was no. We make decision every day and we have reasons
8 for our decisions. But your decision was, no, you were
9 not going to testify. And the reason you were not going
10 to testify was because these witnesses were not going to
11 be called.

12 THE WITNESS: A decision is something you have
13 to sit down and decide to make. That's not a decision
14 that I decided to make.

15 Everything transpired and then when I got before
16 the Judge he asked me if I wanted to testify and I'm
17 telling him it didn't make sense without the witnesses.
18 With the witnesses I would have testified. If I testify
19 by myself who is supporting that? Who is just going to
20 believe that?

21 THE COURT: As a matter of record, for the
22 purpose of the hearing, move things along. I read the
23 colloquy between the defendant and Judge Collini and the
24 decision, as we commonly know it. It's my finding of
25 fact that she decided not to testify. The reason for that

Taylor-Defense-Redirect

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she explained.

MS. GRADY: I have no further questions.

THE COURT: Okay, Ms. Taylor, you may step down.

MR. SMALLMAN: I have one or two follow-ups.

THE COURT: I am sorry. Would the Court staff

mind -- how long do you expect to be?

MR. SMALLMAN: Two, three minutes.

THE COURT: I would ask the staff, if you don't, mind we will extend the lunch hour a little bit. Thank you.

Go ahead, Mr. Smallman. I'm sorry.

MR. SMALLMAN: It's quite all right.

REDIRECT EXAMINATION

BY MR. SMALLMAN:

Q. Couple of quick questions.

Ms. Taylor, how old were you when your father died?

A. Seven.

Q. Do you know how he died?

A. He got shot in the back and went through his heart.

Q. Was that a traumatic event for you?

A. Yes.

Q. Caused you troubles down the road emotionally?

A. Yes.

Q. Did you spend a significant amount of time in the law library?

Taylor-Defense-Redirect

1 A. Yes.

2 Q. About how many hours would you guess?

3 A. A whole lot. I can't give an estimate. I think when
4 we go we can go up to two to three hours at a time. I was
5 there a lot of time the two years that we was waiting to go to
6 trial.

7 Q. That's because you wanted to get familiar with the
8 facts and circumstances of your case?

9 A. Yes.

10 Q. Know as much as you could?

11 A. Yes.

12 Q. Now, did you ever refuse a request by the department
13 of corrections to put you in general population?

14 A. No. No one ever offered that to me.

15 Q. That's not something that you could control, right?

16 A. No.

17 Q. Were you medicated while you were in corrections?

18 A. Yes.

19 Q. Right through to trial?

20 A. Yes.

21 Q. And that was by a doctor's order?

22 A. Correct.

23 Q. Now, you were asked if you were the boss of your case,

24 right? You recall that?

25 A. Uh-huh.

Taylor-Defense-Redirect

1 Q. Did you ever actually feel you were in charge of your
2 case?

3 A. Absolutely not.

4 MR. SMALLMAN: Nothing further. Thank you.

5 THE COURT: Any recross based upon the redirect,

6 MS. Grady?

7 MS. GRADY: No, your Honor.

8 THE COURT: Now you may step down, Ms. Taylor.
9 (Whereupon, the witness steps off the witness

10 stand.)

11 THE COURT: We will be in luncheon recess. We
12 will reconvene at 2:20. 2:20, please. Thanks to the
13 court staff.

14 MR. SMALLMAN: Thank you.

15 (Whereupon, a luncheon recess was taken.)

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Renfroe-People-Direct

A F T E R N O O N S E S S I O N

THE CLERK: Calendar number one, indictment 335
of 2006, Taliyah Taylor.

THE COURT: Let's bring Ms. Taylor out.

(Pause in the proceeding.)

THE COURT: Ms. Taylor is present.

MS. Grady, are you ready yet? Do you need a
couple of minutes?

MS. GRADY: No, your Honor. I am ready.

Your Honor, the People would like to call
Mr. Christopher Renfroe.

THE COURT: Mr. Renfroe, please step up.

THE CLERK: Please remain standing, face the
clerk.

C H R I S T O P H E R R E N F R O E, called as
a witness on behalf of the People, having been first duly
sworn by the clerk of the part, was examined and testified
as follows:

THE CLERK: State your name and spell your last
name.

THE WITNESS: Christopher Renfroe, R-E-N-F-R-O-E.

THE COURT: The microphone is on. Direct your
comments in that direction. Appreciate it.

MS. Grady, whenever you are ready?

MS. GRADY: Thank you.

AP

1 DIRECT-EXAMINATION

2 BY MS. GRADY:

3 Q. Good afternoon, Ms. Renfroe.

4 A. Good afternoon.

5 Q. What do you for a living, sir?

6 A. I am an attorney. I do criminal law.

7 Q. How long have you been doing that?

8 A. I started in the Legal Aid Society in 1984 and until
9 present.

10 Q. As of 2006 had you ever represented anyone in a

11 homicide?

12 A. Yes.

13 Q. Can you give an example of a challenging homicide?

14 A. In 1998 I tried the third death penalty case in New

15 York State. I tried numerous homicides throughout the years.

16 I have been capital certified to try homicides for death
17 eligible defendants.

18 Q. And you know why you are being called to testify here
19 today, correct?

20 A. Yes.

21 Q. And did you represent Taliyah Taylor in this
22 prosecution?

23 A. I did.

24 Q. Did it go to trial?

25 A. Yes, it did.

Renfroe-People-Direct

1 Q. Do you remember generally what the facts of the case

2 were?

3 A. There was a motor vehicle accident where a prominent

4 lawyer in Staten Island was hit and killed and there was

5 another vehicle that was hit and caused injury to two other

6 people.

7 Q. Do you remember when approximately that happened?

8 A. I think -- I believe it was 2006, 2007.

9 Q. When did you first appear in the case?

10 A. About a month after the case.

11 THE COURT: A month after the incident?

12 THE WITNESS: A month after the incident. Sorry,

13 your Honor.

14 Q. Were you retained or assigned?

15 A. I was retained.

16 Q. Did you meet with your client?

17 A. I did.

18 Q. Do you remember when the first time was?

19 A. It would have been shortly thereafter. I make a

20 point -- I am very leery of telephones so I usually go see my

21 clients in Rikers Island or whatever facility they are in.

22 Q. Do you remember how long the case lasted?

23 A. Approximately two years.

24 Q. During those two years, did you meet with your client

25 again?

Renfroe-People-Direct

1 A. I met with the client, met with the family. Yes.

2 Q. Did you also speak to your client over the phone?

3 A. I believe we would have brief conversations over the

4 phone. But I really don't have in depth conversations with

5 any of the clients over the phone. Lawyer paranoia.

6 Q. Did you also appear when the case appeared in court?

7 A. Yes, I did.

8 Q. On those occasions did you also have an opportunity to

9 speak to your client on those days as well?

10 A. Yes, I did.

11 Q. Close to the beginning of the case was there any

12 occasion for your client to have a mental health examination?

13 A. Yes.

14 Q. Did you receive the results of that examination?

15 A. Yes, I did.

16 Q. What was the purpose of that conversation?

17 A. The first report was a 730 report to see whether she

18 was competent to proceed forward with the case.

19 THE COURT: That was ordered by the Court?

20 THE WITNESS: Yes.

21 THE COURT: At your request?

22 THE WITNESS: Yes.

23 Q. Do you remember the name of doctor that wrote that

24 report, one of them?

25 A. Dr. Wang.

Renfroe-People-Direct

1 Q. Did you receive a written report?

2 A. Yes, we get a written report.

3 MS. GRADY: Your honor, I ask this item be marked
4 People's 1 and shown to the witness.

5 THE COURT: People's 1 for identification.

6 (Whereupon, a report was marked as People's
7 Exhibit 1 for identification.)

8 Q. You have been shown what has been marked People's 1.

9 Do you recognize it?

10 A. Yes.

11 Q. What do you recognize it to be?

12 A. This is the report that was -- 730 report that was
13 prepared by Dr. Wang and for the Courts.

14 MS. GRADY: Your Honor, I offer that into
15 evidence as People's 1.

16 MR. SMALLMAN: Without objection.

17 THE COURT: Without objection People's 1 in
18 evidence.

19 (Whereupon, People's Exhibit 1 was marked in
20 evidence.)

21 THE COURT: I have looked at it.

22 Do you want me to give it back to him?

23 MS. GRADY: Please.

24 THE WITNESS: Thank you.

25 Q. What was Dr. Wang's opinion?

Renfroe-People-Direct

1 A. Well, I know she was fit to proceed. I think he
2 found her fit. Let me double check. Dr. Pabon found her not
3 fit to proceed. The initial finding was she was not fit to
4 proceed. I see one from Dr. Pabon. Let me just check. And
5 Dr. Wang also found her not fit to proceed initially.

6 Q. Did Dr. Wang form any clinical diagnosis of her?
7 A. Bipolar disorder.

8 Q. Now, at some point was she found competent to proceed?
9 A. Yes.

10 Q. Was that after an actual hearing?

11 A. Yes. We did do a hearing, yes.

12 Q. Who was your witness for that hearing?

13 A. Dr. Wang.

14 Q. And how -- in your opinion, how did he do as a
15 witness?

16 A. I guess politely he took some lumps. He was
17 challenged extensive by the prosecution of his findings.

18 THE COURT: Did the People challenge his finding
19 that she was fit to proceed or that she was not fit to
20 proceed?

21 THE WITNESS: Challenged the conclusion that she
22 was not fit to proceed.

23 Q. So you -- the polite way was he took some lumps?

24 A. Yes.

25 Q. I won't ask for the impolite version.

Renfroe-People-Direct

1 How did he stand up under cross examination?

2 A. I thought that he didn't handle it well. I think
3 that there was something -- from my memory he hadn't brought
4 all the material so the Judge was yelling at him about that.
5 A little -- well, it was a tough day.

6 Q. And what was the outcome of that hearing?

7 A. The trial. We were getting ready to proceed to trial.
8 She was found fit.

9 Q. So you lost the hearing?

10 A. Yes.

11 THE COURT: Was that Judge Collini?

12 THE WITNESS: Yes.

13 Q. Drawing your attention to October 6, 2008, did the
14 case proceed to trial?

15 A. Yes, it did.

16 Q. What was the top count of the indictment?

17 A. Depraved inference murder.

18 Q. Did you research the law of depraved indifference
19 murder at that time?

20 A. Yes.

21 Q. Do you remember what the elements were that you were
22 facing?

23 A. That I engage in conduct which has a high chance of
24 causing death or serious physical injury.

25 Q. Do you remember what the mens rea of that was?

AP

Renfroe-People-Direct

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1 A. Reckless. But when you describe the reckless what
2 separates it from manslaughter is like -- the only way I can
3 describe it is opening the door on the lion's cage when there
4 is a crowd of people there. Throwing a grenade at a group of
5 people. That's what raises it from normal recklessness.

6 Q. And what was your -- what was the plan for defense for
7 that charge?

4 Q. How does such a defense compare to, for example, an

6
A. I have the burden of proving it by a preponderance of

7 the evidence.

8 Q. Are there any other difficulties with a GRI defense?
9 A. There are several. You open the door to prior crimes
0 that might not -- might otherwise be Sandoval doubt.

But particularly in this case there was a motor

2 vehicle accident where my client had run some lights and hit
3 a house while driving intoxicated. There was also an alleged

4 incident where she pulled a gun on a bouncer, something like
5 that. Some of these things which were Sandovalled out would

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Renfroe-People-Direct

1 now come in at the cross examination of her and of the
2 experts.

3 Q. How did you plan to meet your burden of the defense?
4 A. There were witnesses who had indicated that prior to
5 the incident, like three or four days before, she was hearing
6 voices and acting strange.

7 And I remember one witness, Trish, who was a good
8 friend of Ms. Taylor. So we were going to call witnesses to
9 put forward the defense, call the defendant, call Dr. Wang and
10 call Dr. Berrill.

11 Q. Who is Dr. Berrill?

12 A. Dr. Berrill was the psychologist that I had hired to
13 interview Ms. Taylor and come to a conclusion concerning what
14 he thought her mental capacity was at the time of the
15 incident.

16 THE COURT: Mr. Renfroe, in regard to these
17 incidents that allegedly occurred three or four days
18 before the accident or crime, Tricia Matthews ring any
19 bells to you?

20 THE WITNESS: Yes, it does.

21 THE COURT: And Maliyah Rowe?

22 THE WITNESS: Yes. I think I spoke to Taliyah
23 Taylor's mom. I'm not sure if she related that to me or
24 said if she had known this was going on she would have
25 taken her to the hospital. I am not sure if she also had

known about those symptoms.

THE COURT: And you had decided to call Dr. Wang despite the difficulty you had on cross examination of the 730 exam?

THE WITNESS: Because he was the treating doctor. If we were going to put forward the defense, the observations that he made would be important. He was actually I think here in the courtroom. I think was in the courthouse on the date that I received the tapes.

Q. Let's take it a step at a time.

Prior to trial you said you hired Dr. Berrill?

A. Yes.

Q. You arranged for Dr. Berrill?

A. Yes.

Q. Did he prepare a report?

A. Yes.

Q. Did he prepare a report?

A. Yes, he did.

MS. GRADY: I ask that this item be marked People's 2 for identification and shown to the witness.

THE COURT: 2 for identification.

(Whereupon, a report was marked as People's Exhibit 2 for identification.)

MR. SMALLMAN: No objection, your Honor for purposes of the hearing.

THE COURT: It will be marked People's 2 in evidence.

Renfroe-People-Direct

1 (Whereupon, People's Exhibit 2 was marked in
2 evidence.)

3 THE COURT: 2 in evidence being shown to

4 Mr. Renfroe.

5 Q. Is that document Dr. Berrill's report as you recall
6 it?

7 A. Yes.

8 Q. What's the date on that report?

9 A. One second. December 23, 2007.

10 Q. And what was Dr. Berrill's opinion?

11 A. Schizophrenia paranoid type. Schizoaffective
12 disorder.

13 Q. So, his opinion was because she suffered from those
14 mental diseases or defects that she was not responsible for her
15 actions the night of the crime?

16 A. That's correct.

17 THE COURT: Is that what he wrote in the report
18 exactly? Did he opine that she was insane or the
19 definition of 40.15?

20 THE WITNESS: Yes. There is -- Ms. Taylor was
21 suffering from serious psychiatric symptoms for sometime,
22 was clearly decompensating and experiencing an
23 increasing severity of the symptoms prior to the instant
24 offense.

25 THE COURT: His bottom line.

Renfroe-People-Direct

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THE WITNESS: Given the results -- clinically speaking, given the results of this examination it's apparent that Ms. Taylor is an extremely disturbed individual. She seems to be receiving benefit from her current psychiatric medicines which is a plus. Given the nature of her mental illness and seriousness of her condition, it's suspectable she would require psychiatric treatment for inpatient or outpatient treatment for the remainder of her life.

THE COURT: May I see that for a second.

THE WITNESS: Yes. (Handing)

THE COURT: Thank you.

There are three numbers on this. His page 11 sub three. It reads, given her description of her mental state at the time of the instant offense it is unimaginable that she possessed the ability and/or capacity to form the intent to commit this crime.

And then he goes on to say, she doesn't recall any of the circumstances.

Did you ask Dr. Berrill to opine on a complete affirmative defense of insanity or did you also ask him to opine on whether based upon a psychiatric problem combined with alcohol and medication that she could not have the state of mind to act with a depraved indifference to human life?

Renfroe-People-Direct

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2 Basically a fall back position from full
3 insanity. Try to eliminate it, the murder two, and bring
4 it down to a man. two or was it your intention to go for
the entire --

5 THE WITNESS: To be honest, I didn't -- I don't
6 believe I had a fall back position. I don't believe
7 I -- you know, things progressed pretty rapidly as I got
8 ready to call Dr. Wang, who was in the hallway to set the
9 parameters of the defense before calling the lay
10 witnesses.

11 I was given the tape and we broke and I went back
12 to the office and myself and Jose Araujo basically started
13 listening to the tapes.

14 THE COURT: Go ahead.

15 Q. Had the People hired a doctor to examine her?

16 A. Yes.

17 Q. Did they give you a copy of his report?

18 A. Yes.

19 Q. So you knew what his testimony was going to be?

20 A. Yes.

21 MS. GRADY: I ask that this be marked People's 3
22 for identification.

23 (Whereupon, a report was marked as People's
24 Exhibit 3 for identification.)

25 THE COURT: 3 for identification.

Renfroe-People-Direct

This is Dr. Schneider's report? Are you offering it into evidence?

MS. GRADY: Yes.

THE COURT: Any

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THE COURT: Without objection People's 3 in

7 evidence.

8
(Whereupon, People's Exhibit 3 was marked in

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What is the name of the doctor that you see?

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5 his diagnosis was?

6 A. Let me see

7 is currently fit to proceed. Ms. Taylor does not lack

8 substantial capacity to understand the charges against her, the
9 nature of the legal proceedings, and to cooperate in her
0 defense.

Q. Had he formed any psychiatric diagnosis of her?

Are you trying to refresh your recollection?

A. Yes.

25 A. Thank you.

Renfroe-People-Direct

1 Q. Do you recall whether it was antisocial personality
2 disorder?

3 A. I think that and I think he indicated that he thought
4 she was malingering.

5 Q. What does that mean?

6 A. Sort of pretending to have a psychiatric defense.

7 Q. Is antisocial personality disorder a defense you can
8 proceed with at trial as a disease -- as a mental disease or
9 defect that will negate intent?

10 A. No.

11 Q. Did that report give you any concern about the
12 defense?

13 A. Well, at that point it was more a battle of the
14 experts. That's --

15 THE COURT: Do I have the dates right? The
16 People had your client examined first and then Dr.
17 Berrill came in after this?

18 THE WITNESS: Yes, I believe that. If I can
19 look? Dr. Wang was the first doctor.

20 THE COURT: I am more interested in the retained
21 people. Dr. Berrill you said was December 23, 2007?

22 THE WITNESS: He saw her on September 26, 2007.

23 THE COURT: And his report was?

24 THE WITNESS: His report was December 23, 2007.

25 THE COURT: And Dr. Schnieder was?

Renfroe-People-Direct

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THE WITNESS: February 4.

2

THE COURT: 2007?

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THE WITNESS: Yes.

4

THE COURT: Thank you.

5

Q. You arranged for Dr. Berrill to come into the case

6

after it was a battle of the experts as you say?

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A. Also I had used him in other cases.

8

Q. As you proceeded to trial what did you think of the

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chances of the defense as you were preparing for trial?

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A. Well, based on the nature of the injuries and what

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had happened, it was always a tough defense but it was a

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defense that was presented.

13

Defenses, they don't come from the lawyer. They

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actually come from the client. If the client says I was in

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California, I couldn't have done this murder then you go check

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out to see if the person was in California and you get ready to

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proceed with the defense.

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Q. How did the issue of intoxication figure into your

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plan?

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A. This case had two potential defenses. The insanity

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defense and intoxication defense. Those defenses always

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existed. There was a danger in both defenses.

23

Part of the danger in this defense, of the insanity

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defense, is because you have a burden in opening up the door to

25 prior incidents with your client. Even in the report by

Renfroe-People-Direct

1 Dr. Berrill he's discussing long-term drug usage which can
2 cause, you know, schizophrenia. It's been known to happen.
3 You know, they both raise concerns when you have a defense.

4 Q. Concerns for what?

5 A. As we do this business, you know, hopefully what we
6 are trying to do is we are trying to get our client off or as
7 little time as possible. So they're inherent risks if you come
8 in second place. People do a lot of time in jail.

9 Q. And then even if you had called one with the GRI
10 defense, was there a down side to that?

11 A. I spoke to and I don't remember the woman's name
12 but she was in Queens and I discussed it with her because
13 she -- she was the person in Legal Aid who did all the cases
14 when someone had like an insanity defense. And she said,
15 well, like, the person will do -- her belief was that even if
16 the person was compliant with medicine and all this, she might
17 be in for like ten, eleven, years.

18 I also did a case in Brooklyn, was a capital murder
19 case, and we actually got a plea of not guilty by reasonable
20 disease or defect. I had another lawyer with Russ Murray
21 (phonetic spelling.) I was the lead counsel in the death
22 penalty case. I explained the results. The results that not
23 guilty by mental disease or defect you might never get out of
24 jail and he said I needed help. I don't want to go to trial
25 and I want to take that result.

1 Q. When you say "never get out of jail", you mean never
2 get out of jail?

3 A. Never get out of the mental hospital. That was a
4 person by the name of Troy Batson.

5 Q. There is no time when you are committed to a hospital,
6 it's not for a length or a term?

7 A. Yes.

8 Q. It's indefinite?

9 A. It's when the doctors feel that you are no longer a
10 danger to yourself and others. That's my understanding. And
11 a Judge has to sign off on that as to when you get released.

12 Q. Did you have an opinion as to when she could hope to
13 be released from that hospital?

14 A. I hadn't done that part of it. That's why I contacted
15 the person from Legal Aid who had done a lot of these and she
16 said, you know, based on her experience it might be like ten
17 years.

18 Q. What was the People's offer before trial?

19 A. It was fifteen years and I think my client had
20 served two years by the time we were getting ready to go to
21 trial.

22 Q. As you proceeded for trial did you speak to your
23 client about preparing for the case?

24 A. Yes.

25 Q. Was she assisting you in preparing for trial?

1 A. I believe so. I think -- I went out to see her.

2 You know I talked to her witnesses. I met with her family
3 members.

4 Q. Was she engaged at what was happening in the trial?

5 A. I believe so. Yes.

6 Q. Did she give you input on how to cross examine the

7 People's witnesses?

8 A. Yes.

9 Q. And then the trial began. Did there come a day in the
10 trial when were you ready to start presenting your defense
11 case?

12 A. Yes.

13 Q. And what happened?

14 A. Mr. Mattei gave me a CD and we approached and said I
15 had to listen to the CD before I proceeded, which I thought was
16 a good idea. So we adjourned and I went back to my office and
17 I listened to the CD.

18 THE COURT: Did Mr. Mattei indicate to you what
19 was on the CD?

20 THE WITNESS: Yes, that was jail house calls by
21 my client.

22 THE COURT: At any time prior, during the trial,
23 was there any intimidation or discussion with the
24 prosecutor that they were attempting to -- either they had
25 these taped recordings or they were attempting to get

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these taped recordings from Rikers Island?

THE WITNESS: No.

THE COURT: The first time you heard about this was just after the People --

THE WITNESS: As I was getting ready to call Dr. Wang, who was in the hallway.

THE COURT: Okay, thank you. Go ahead,

MS. Grady.

Q. Did they give you any sense of what might be on the tapes?

A. I can't really say if they told me. Having done this for 30 years I had a feeling what was on the tape wasn't good for me.

Q. Even if you don't recall now what they said, do you remember whether or not they communicated with you at all what they were finding to be on the tapes?

A. I don't recall.

THE COURT: Do you recall receiving transcripts, at least some transcripts along with the CD?

THE WITNESS: I am not sure if I got transcripts. I know I went back to the office and I started listening to the tapes.

Q. On that date, on that particular day, they are just giving you the CD?

A. I believe so. I'm not sure. But I know that -- I

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1 know I reached out to Jose Araujo and said, Jose, listen to
2 these tapes with me. Jose was someone I have known. He is
3 actually still with me. When I did the death penalty case he
4 interned with me and has been with me ever since. He has been
5 with me and goes through the cases with me. He volunteered to
6 go through the tapes with me.

7 Q. Did you listen to all the calls?

8 A. I think we did. I think we just sat.

9 Q. How many calls?

10 A. 88 calls.

11 Q. How long did that take?

12 A. Well, it wasn't like you just listen to it. You
13 listen to it, you go back. So we were there, burning -- I
14 don't even -- I don't know if we even slept that night. I
15 can't even tell you but we listened to those tapes.

16 Q. As part of your preparation for today's hearing did I
17 provide you with a CD?

18 A. Yes.

19 Q. Did you listen to the contents?

20 A. Yes.

21 Q. What was on those CDs?

22 A. Calls from Rikers Island.

23 Q. Did you recognize the calls?

24 A. Yes.

25 THE COURT: Are you referring to Court Exhibit 1

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2 or 1?

3 MS. GRADY: Court Exhibit 1.

4 Q. Over the lunch break did we listen to the CD -- not
5 all the CD. I am referring to Court Exhibit 1. In fact, the
6 CD that I provided you is part of the preparation. Do you have
7 that with you?

8 A. Yes.

9 Q. Can you look at it?

10 A. I can grab it. It's in --

11 THE COURT: Is there any question.

12 Q. Is the CD with more than 80 calls on it?

13 A. Yes.

14 THE COURT: Do you have the one that's marked?

15 MS. GRADY: Yes. I just want to make sure we are
16 talking about the same CD.

17 Q. Before I get to that, in these calls did you recognize
18 the voices?

19 A. Yes, some of them.

20 Q. Who did you recognize the voices to be?

21 A. I believe I recognized Tricia's voice and Taliyah
22 Taylor's voice.

23 Q. And what did recognize Tricia's voice from? Had you
24 spoken to her?

25 A. Yes.

Q. That's Tricia Mathews you are speaking of?

1

A. Yes. Yes.

2

Q. Did the contents of the CD, these Rikers calls, did
3 that have any effect of your opinion of the defense you had
4 planned?

5 A. Yes.

6 Q. What was that?

7 A. I came to the conclusion that if I went with the

8 defense I probably would be killing my client so I decided I
9 didn't think that was a good idea.

10 Q. When you say killing your client, you didn't think --

11 A. I didn't think it was a successful defense.

12 Q. Were there certain calls in particular that you found
13 significant?

14 A. There was one call where she commented how she
15 was -- she had gotten saliva on a guard because she had spit
16 out her medicine and she was joking with the guard. You
17 know it was like this whole colloquy about that to who she was
18 talking on the phone with. That was one.

19 Q. Did that call make it sound as though that was an
20 isolated event or this was something she was doing, spitting
21 out her medicine?

22 A. I had a feeling this was not an isolated event and she
23 was not taking her medicine. That would present a problem
24 since the medicine was designed to keep at bay the
25 schizophrenic problems that she was having.

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2 years after the incident?

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4 THE WITNESS: That was actually right near the
5 time of trial.

6

7 THE COURT: Which is about two years after the
8 incident?

9 THE WITNESS: Yes.

10

11 Q. How did that affect Dr. Berrill's -- your opinion of
12 Dr. Berrill's opinion?

13 A. He had come to a conclusion that she would need
14 treatment which I took to mean medicine, either inpatient or
15 outpatient for the rest of her life so that the symptoms of
16 the schizophrenia wouldn't be manifest.

17 But that conversation made it appear that she wasn't
18 taking her medicines and all the conversations that were
19 being -- when she was discussing with everyone she was very
20 lucid. So, she was very lucid while she was not taking her
21 medicine. That's the difficulty.

22 THE COURT: Did you find her at any time leading
23 up to like in the weeks before the trial that she was
24 acting any differently from the time you had -- was there
25 any change in her behavior over the two years you
represented her prior to the trial?

THE WITNESS: Well, when I met her she was on
this medicine. So supposedly on the medicine -- so I

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1 didn't see any changes. So, that's the answer.
2

3 demeanor or behavior from the first time you met her till
4 trial?
5 A. That's correct.
6 Q. You thought it was because she was on medication?
7 A. That's correct.
8 Q. But then based on this phone call she wasn't taking
9 the medication, is that what you are saying?
10 MR. SMALLMAN: Objection.
11 THE COURT: You suspected she might not be taking
12 her medication?
13 THE WITNESS: Yes.
14 THE COURT: Did she say anywhere in that
15 conversation, I stopped taking my medication?
16 THE WITNESS: I don't know if there is an exact
17 reference to the fact that she is never taking her
18 medicine but there were several instances where there was
19 that. There was an indication that she said that, you
20 know, I know how to get around the doctors. I will be
21 out of here in one year. It's better if I'm in the mental
22 observation unit. It's better for my case.
23
24 There were some issues with those tapes where we
25 have the burden of proving the insanity defense by a
preponderance of the evidence and you know.

AP

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1 THE COURT: All right.

2 Q. So all of those calls, spitting out her medicine, I
3 know how to get out hospital, I would love to be in GP and have
4 a job but being in a mental unit is good for my case, the sum
5 total of those calls, how did those compare in your mind to

6 Dr. Schneider's opinion?

7 A. They would reinforce the opinion of Dr. Schneider.

8 Q. That?

9 A. That she was not schizophrenic.

10 Q. But was?

11 A. Malingering.

12 MS. GRADY: Judge, I would like to play --

13 THE COURT: Have we heard the essence of it?

14 Heard the actual tape?

15 MS. GRADY: Beg your pardon.

16 THE COURT: Mr. Renfroe summarized. Do you

17 need to play the tape? If you want to, go ahead.

18 MS. GRADY: I don't know if that would be of
19 assistance, the call about spitting out medication. Do
20 you think that's not necessary.

21 THE COURT: If you believe that would show -- I am
22 going to assume this was one day where she said she was
23 spitting out her medication.

24 MS. GRADY: May I tell your Honor which call I
25 was going to play. You have the CDs in evidence.

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1 THE COURT: Sure.

2 MS. GRADY: October 24. The call that ended at

3 11:04 a.m. with file number 20081004104452.

4 THE COURT: Okay, thank you.

5 MS. GRADY: It was at minute four and ten seconds
6 that it began.

7 THE COURT: All right. I will review that.

8 Thank you.

9 Q. Were there other calls that gave you pause? Other
10 types of conversations that you had that caused you concern if
11 they were to be played in front of the jury?

12 A. There were calls where she said that I gave -- I've
13 given the questions or I've given the testimony to the
14 witness and I'm going to talk to them later. That was
15 troubling also.

16 Q. Did she say I gave questions or did she say she had
17 given answers?

18 A. I think it was answers.

19 Q. And what did that make it seem? What caused
20 concern -- what did you find significant about that?

21 A. In the normal process of a trial or when you speak to
22 a witness, you ask them questions and get the answer from the
23 witness. It's never a situation where you tell the witness
24 what they should say. That's not how it's supposed to happen.
25 So that was problematic to me.

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THE COURT: That would be in regard to the lay
witnesses?

THE WITNESS: That's correct.

Q. Did you speak to Dr. Wang after listening to the
calls?

A. Yeah. I think -- now doing this from memory I think
when we adjourned we told Dr. Wang to come back the next day.
And then, you know, as I went over these tapes with Mr. Araujo
he and I came to the conclusion that, you know, we had a better
shot of saving Taliyah Taylor's life if I went with an
intoxication defense.

Q. So when you say, I think Dr. Wang came the next day,
was he there, was he in the hallway?

A. Yes.

THE COURT: An intoxication defense based on the
testimony that had been elicited during the People's
direct case?

THE WITNESS: That is correct.

Q. When you came back to the courthouse, did you speak to
Dr. Wang on what you heard on the calls?
A. Yes. I can't tell you what degree I talked to him
about it, I mean.

THE COURT: Was Dr. Wang going to be called as
an expert witness or simply as the treating --

THE WITNESS: Treating.

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the extent he could give a diagnosis but he was not going to give an opinion?

THE WITNESS: He was a fact witness because he had seen her all those times.

THE COURT: I get it.

Q. He only seen her after the crime; is that right?

A. Yes.

Q. So, you remember speaking to Mr. Wang but not the contents of those conversations?

A. Yes.

Q. Did you speak to Dr. Berrill?

A. Yes.

Q. Was that in person or over the phone?

A. I called Dr. Berrill.

Q. When did you call him?

A. It would have been that day.

THE COURT: Can I just interrupt.

Mr. Renfroe, do you recall what Dr. Wang's reaction was to your disclosure of these tapes to him or at least the substance? Did he say now my diagnosis would be in doubt?

THE WITNESS: No.

THE COURT: No.

THE WITNESS: No. I think he was more just

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1 relieved that he wasn't going to have to be cross-examined
2 again.

3 Q. Did you seek to Dr. Berrill?

4 A. Yes.

5 Q. That was over the phone?

6 A. Yes.

7 Q. And did you ask him -- did you convey to him what you
8 heard on the calls?

9 A. I can't remember. I don't remember. I know I let
10 him know that, you know, I think we had a problem with the
11 defense and what direction I was going in and you know.

12 Q. Did you ask his opinion?

13 A. I don't know if I asked his opinion on that. I don't
14 want to say I asked his opinion.

15 Q. Did you ask him if he learned X, Y or Z from it, the
16 calls, would that affect his opinion?

17 A. I did not. I don't remember asking him that because
18 when I -- when I listened to the tape, you know, somebody,
19 right or wrong, somebody's got to drive the car. I'm the guy
20 that drives the car. So, when I listened to those tapes, you
21 know, I -- whether you believe it or not, my thought process
22 was what's the best way to try to win this case for Taliyah
23 Taylor.

24 THE COURT: Now, can I assume and I think I
25 looked at Dr. Berrill's report and I don't know the

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answer. Dr. Berrill did not speak to either Tricia Matthews or Maliyah Rowe in formulating his -- I think he lists the source of his information in the report. I did not see he had spoken to either of them.

THE WITNESS: I am looking. It's something I'm not sure of. If they were a source, I guess I would assume he would put it in the report.

THE COURT: Right. And there, again, I didn't look at Dr. Wang's report in detail. Do you recall whether he had interviewed Ms. Rowe or Ms. Matthews?

THE WITNESS: I think Dr. Wang spoke with the family. If I can take a quick look. I am not sure which family members he spoke to.

I believe he spoke to family members but I wouldn't be able to say who he spoke to.

THE COURT: Thank you.

Q. Drawing your attention to that next day, the day after, October 22. Did you speak to Ms. Taylor about the content of the calls?

A. Yes.

Q. Did she try to give an explanation of their content to you?

A. I don't recall.

Q. What happened when the case was called?

A. I think I informed the Court that I would not be

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1 proceeding with an insanity defense and the next issue was
2 whether Ms. Taylor was going to testify.

3 Q. And then did you ask for time to speak to your client
4 about that?

5 A. I think I did. Yeah, I know I did.

6 Q. Was the Judge -- did the Judge rule on the
7 admissibility of the CDS?

8 A. Yeah. I think I told him that I think they were --
9 that the service of these CDS were late, that I want them
10 precluded and I didn't win that issue.

11 Q. So the People were going to be able to use the CDS?

12 A. That's correct.

13 Q. The People were going to be able to use it to cross
14 examine your doctors?

15 A. Yes. And the defendant if she testified and the
16 witnesses if they testified.

17 Q. So then you spoke to your client and the case was
18 recalled. Did your client -- had she decided whether or not to
19 testify?

20 A. I think she decided not to testify.

21 Q. Do you remember speaking to her about that decision
22 during the break?

23 A. Yes, I did.

24 Q. What was the content of that conversation?

25 A. I mean, I think she said if I don't have my witnesses

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1 I'm not going to testify. I can tell you that neither
2 Taliyah Taylor or myself were happy that day. It's the day
3 where, you know, the preparations for the defense had taken a
4 direct hit.

5 Q. Okay. Now, as you decided whether or not to proceed,
6 was there anything besides the phone calls that you took into
7 consideration in deciding to forego the defense?

8 A. Well, the defense was tough to begin with in light
9 of -- especially the issue about the prior case where she had
10 been intoxicated. So, I know I took that into consideration.

11 Q. What were the facts of that case?

12 A. That she ran a couple of lights and hit a house.

13 Q. She ran a couple of lights and hit a house while
14 intoxicated?

15 A. Yes.

16 Q. And that was on Staten Island?

17 A. Yes.

18 THE COURT: But you knew that before --

19 THE WITNESS: Uh-huh.

20 THE COURT: -- the case began?

21 THE WITNESS: Yes.

22 Q. That prior crime -- before the case began, Judge

23 Garnett was asking, was that prior crime going to be admissible
24 during your cross examination of your witnesses?

25 A. Yes.

AP

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1 Q. That was already going to be part of the cross
2 examination of the doctors?

3 A. Yes.

4 Q. But then as you analyzed the viability of the defense
5 what went into that?

6 A. It's not an exact science. You are trying to figure
7 out -- for example, if this case went up to the Court of
8 Appeals if they -- if the defense had -- if the defense had
9 been the majority we wouldn't be here.

10 Q. What are you referring to?

11 A. Justice Smith.

12 THE COURT: Justice Reid. Not Justice, Judge I
13 mean.

14 Q. Imagine I don't know anything about it.

15 THE COURT: I know about it, Mr. Renfroe knows
16 about it, Mr. Smallman knows about it.

17 Q. Let's put on the record what you are alluding to. Let
18 me ask you this: At the time you are deciding to forego the
19 defense of mental disease, were you left without a defense?

20 A. No.

21 Q. What was the defense?

22 A. That she was intoxicated. That she never intended to
23 drive the car. That when she got into the car, you know, she
24 wasn't -- she was intoxicated. She didn't know what she was
25 doing and drove at a high rate of speed causing this but she

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1 was intoxicated, that's why it happened.

2 Q. And were there facts already in the record to already
3 establish all of that?

4 A. Yes.

5 Q. Did you argue that to the jury?

6 A. Yes.

7 Q. Did that succeed?

8 A. No.

9 Q. She got convicted?

10 A. Yes.

11 Q. Did the case go on appeal?

12 A. Yes.

13 Q. Where did it go to appeal?

14 A. To the Court of Appeals.

15 Q. What was the outcome of the Court of Appeals.

16 A. We lost in the Court of Appeals.

17 Q. Was it on that issue?

18 A. Yes.

19 Q. Was that the issue before the Court of appeals?

20 A. Yes.

21 Q. Based upon all the facts in the case?

22 A. Yes.

23 Q. And your arguments on summation?

24 A. Yes.

25 Q. Let me ask you this: Did you get a jury instruction

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1 from Justice Collini on the issue of intoxication?

2 A. Yes.

3 THE COURT: The intention of arguing that was to
4 have the jury, if they did not find her not guilty of
5 everything, to consider Manslaughter in the Second Degree?

6 THE WITNESS: Yes.

7 THE COURT: Rather than murder, depraved murder?

8 THE WITNESS: Yes.

9 Q. Why didn't you ask for a continuation?

10 A. Sometimes you have to make decisions. Based on those
11 decisions you go with it. If we put it over for another day,
12 how was the issue going to change? We were confronted with
13 an issue late in the game. I guess maybe with another two
14 hours sleep maybe my summation might have been better but, you
15 know.

16 THE COURT: In your opinion, a request for a
17 longer continuation would not have changed your opinion --

18 THE WITNESS: No.

19 THE COURT: -- as to how you were going to
20 proceed?

21 THE WITNESS: No. Maybe someone else sees it
22 different than me. If I had to try this case again I
23 would try it exactly like I tried it. I would not put in
24 the insanity defense because my experts would have been
25 hammered. Some of the witnesses had mutinied at this

1 point because of what had happened and they had some
2 reservations about being called as witnesses.

3 Q. Which witnesses were they when you say some of the
4 witnesses had mutinied? Were they not interested in coming in
5 any more?

6 A. Listen, I got subpoena power. I could get witnesses
7 in but there is a difference between witnesses who are coming
8 in and -- you know what I mean, and it's just the cross
9 examination they are going to endure.

10 As to the insanity defense, greater minds than me
11 have to make decisions on this. I think the insanity defense
12 had been really seriously damaged to the point that I thought
13 that the best trial strategy was to use the intoxication
14 defense.

15 Q. Was there any damage that would have been done to the
16 intoxication defense if you had gone and called the doctors and
17 the witnesses and let them be examined?

18 A. Now I am giving you my opinion. I believe so.

19 THE COURT: Mr. Renfroe, when you initially
20 objected to Judge Collini and asked the tapes be
21 precluded, and this was a surprise at the People's case --
22 first of all, did you ever contemplate making a mistrial
23 motion before Judge Collini and if not why not?

24 THE WITNESS: Your Honor --

25 THE COURT: Did you think it was -- in terms of

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1 the gravity, the significance of the tapes to the case,
2 was it so significant that it should have justified a
3 mistrial motion?

4 THE WITNESS: I am trying to look back --
5 THE COURT: I know. I respect you and I
6 understand.

7 THE WITNESS: As I stand there now, there are a
8 couple of issues. These are all things which are actually
9 happening outside of the purview of the jury.

10 One of the first things I tried to do, based on
11 the sensitive nature of this case, was to get it out of
12 Staten Island because this case in Staten Island, I mean
13 why was I here? Why did they find me? They found me
14 because there was no lawyer who would take this case in
15 Staten Island. So I said, you know we got to get out of
16 here. Unfortunately the appellate division disagreed
17 with me so I was here.

18 THE COURT: I understand your position. I really
19 do.

20 THE WITNESS: And so, usually, and I may be
21 wrong, usually when there is something that affects the
22 jury you ask for a mistrial. The only effect on the jury
23 on this, which is something that, you know, there is an
instruction for the jurors not to read the newspapers.

24 But this being an insular place, the fact that she wasn't
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putting on an insanity defense which was on the front page of whatever. But at that point I thought I was in the soup. Should I have asked for a mistrial based on newspapers, maybe that was something. But other than that, that's where I am.

THE COURT: AS I recall you had opened to the jury and told the jury that you were going to call lay witnesses and you told the jury -- I don't know if you referred to them by name but doctors would testify as to your client's insanity or state of mind at the time of the commission of the crime; is that right?

THE WITNESS: I'm sure I did.

THE COURT: So, I am just trying to put this in the framework. So, you open to the jury and you knew Wang might be a problematic witness in light of the fact that he hadn't done well at the fitness proceeding, right? That he was like susceptible to being attacked or rattled on cross examination?

THE WITNESS: Yes, but you could deal with that because he was only a fact witness. What did you observe? What did you see? What's this? What's that? The conclusions were going to come from Dr. Berrill.

THE COURT: But we don't know what -- you announced Berrill. After all is said and done Berrill still stood.

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THE WITNESS: Okay.

THE COURT: Is that all right? Is that right? I
recall you couldn't remember what you told him about the
case.

THE WITNESS: I can't answer that. I don't want
to -- I mean, I can't say that I said doctor, come and
listen to these tapes and, you know, tell me what you
think. Listen to these tapes. I can say that didn't
happen. So, it would be unfair for me to do that without
saying Dr. Berrill listens to these tapes. I wouldn't
feel comfortable with it.

THE COURT: I am going to try to -- tell me if I
am wrong or I'm right. The way you sized this up as a
seasoned criminal defense attorney was that going in you
had a problematic defense of insanity?

THE WITNESS: Uh-huh.

THE COURT: And that upon revelation of the tapes
and the phone conversations from Rikers Island that was
the straw that broke the camel's back in regard to the
insanity defense, would that be fair?

THE WITNESS: Yes.

THE COURT: And your alternative then was to rest
and go with the testimony that had been elicited during
the People's direct case of intoxication in the hope that
if the jury convicted your client they would only convict

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her of the lesser charge of Manslaughter in the Second
Degree; is that a fair summary?

3 THE WITNESS: Yes.

4 Q. Just to follow-up on a couple of things.

5 The defense of mental disease or defect, was that
6 going to be a -- was that going to be offered by the defense as
7 negating depraved indifference only?

8 A. No.

9 Q. Reckless also?

10 A. Yes.

11 Q. Whereas the intoxication defense only would --

12 A. Negate some of the charges.

13 Q. As far as Justice Collini, in your opinion having
14 appeared before him, do you think a motion for a mistrial would
15 have been granted?

16 MR. SMALLMAN: Objection.

17 THE COURT: Overruled.

18 A. I don't think so. That's, you know --

19 THE COURT: I think that's a little speculative.

20 THE WITNESS: I am sorry.

21 THE COURT: As an attorney you can tell me if
22 you made the motion what do you think the chances were
23 that it would have been granted?

24 THE WITNESS: Absolutely not.

25 MS. GRADY: No further questions.

A.P.

Renfroe-Defense-Cross

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THE COURT: I am just going to ask, the next question would be; if you asked for a continuance for say -- I don't know what day of the week this was. Say, for example, this was a Tuesday and you asked Judge Collini, Judge, could I have until Monday to go through this thoroughly, discuss it with all my witnesses and give you a decision, what do you expect Judge Collini would have said or based upon your experience?

THE WITNESS: He seemed to like me as a person but the rulings were not going well so I think the answer would have been no.

THE COURT: No further questions?

MS. GRADY: No.

THE COURT: Mr. Smallman?

MR. SMALLMAN: Thank you, Judge.

CROSS EXAMINATION

BY MR. SMALLMAN:

Q. Good afternoon, Mr. Renfroe?

A. Good afternoon.

Q. How are you?

A. Good.

Q. Never said it would be easy, right?

A. No. But that's our job, keep swinging, right.

Q. You have been at it awhile?

A. Yes.

Renfroe-Defense-Cross

1 Q. We know each other over 30 years, right?

2 A. Yes.

3 Q. You have tried a 100 cases, 150?

4 A. Yes.

5 Q. Would you agree with me that everything or a lot of
6 what we do is interpreted?

7 A. Yes.

8 Q. I would like to take you back to the first time you
9 reviewed the facts of this case with Ms. Taylor or whoever it
10 was that gave them to you.

11 Q. Would you agree with me they were pretty shocking?

12 A. Yes.

13 Q. And Ms. Taylor was described as having driven a
14 vehicle at an excessive rate of speed naked?

15 A. Yes.

16 Q. And other points in time there were references to
17 her consuming alcohol and/or using drugs as part of her life
18 style?

19 A. Yes.

20 Q. Any other time where she had been described, to your
21 knowledge, of having done any of those things naked?

22 A. No. Not that I am aware.

23 Q. Subsequent or at some point in your preparation for
24 trial you said you had conversations with her mother and/or the
25 other eye witnesses to this event?

1 A. Yes.

2 Q. And they began to describe or confirm for you some

3 type of a psychotic episode?

4 A. Yes.

5 Q. A mental breakdown of sorts?

6 A. Yes.

7 Q. And as a professional you had objective facts to go
8 along with that, right?

9 A. That's correct.

10 Q. She was being treated psychologically at Elmhurst
11 General?

12 A. Yes.

13 Q. As a prisoner?

14 A. Yes.

15 Q. When she was removed from that setting she was taken
16 to Rikers in a hospital setting?

17 A. Yes.

18 Q. And presumably continued to be medicated, right?

19 A. I am going to say okay.

20 THE COURT: Presumably maybe not actually. We
21 will say presumably that would have been the normal

22 course?

23 THE WITNESS: Yes.

24 Q. You have no reason to feel otherwise, right?

25 A. No.

Renfroe-Defense-Cross

1 Q. Get any reports from Rikers saying your client is
2 refusing to take medication?

3 A. No.

4 Q. Let me go to the tapes.

5 You were given a tape that says Ms. Taylor spit her
6 medication out?

7 A. Yes.

8 Q. That's a very significant event at least as it applies
9 to your entire trial strategy, right?

10 A. Yes. That's one of them, yes.

11 Q. Any opportunity to either confirm that or determine
12 whether it's just another inmate talking b.s.?

13 A. No. That was Taliyah talking to someone and there is
14 a colloquy where the guard says, Oh, you spit on me. And she
15 is explaining that I had spit out my medicine so I had
16 something on my hand that -- saliva that I got on the guard.
17 So it was -- that was my client saying this.

18 Q. I understand.

19 A. Okay.

20 Q. But my question is, do you -- let me ask you a
21 different way. Is everything any of your clients ever told
22 you, whether on tape or in person, ever proven to be the
23 truth? Ever been lied to by a client?

24 A. Yes.

25 Q. Ever been puffed up by a client?

Renfroe-Defense-Cross

1 A. Yes.

2 Q. Tell you things that are really incredible?

3 A. Yes.

4 Q. But you had really no opportunity at this point in
5 time to confirm or check out whether or not the accuracy of
6 this spitting event was, in fact, true, right?

7 A. Okay.

8 Q. Let me phrase it another way.

9 Did you have an opportunity to talk to Ms. Taylor and
10 say, I heard you say that on the phone but did you actually do
11 that?

12 THE COURT: After you heard the tapes.

13 Q. After you heard the tapes?

14 A. You are talking about just that specific incident,
15 right?

16 Q. Just that incident?

17 A. No, I did not confirm that with her.

18 Q. Moving forward on that vein.

19 Any of the other stuff that you considered to be
20 damaging or potentially damaging to the witnesses you were
21 going to put on, did you have an opportunity to sit down with
22 Ms. Taylor and walk through them, go through them point by
23 point and say, what was your intention, things of that nature?

24 A. I am going to keep it short. No.

25 Q. Now, you were asked some questions by Ms. Grady about

1 | witnesses being prompted or given a script and things of that

nature, correct?"

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6 Ms. Taylor on the onset of this event?

A. Right.

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10 A. I would be lying to you if I knew exactly, you know
11 what I mean. I know there were different individuals she was
12 speaking to along the way.

13 Q. Did Ms. Taylor tell you she had an incomplete

14 Recollection of these events, certain aspects of it were

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I smoke to all of them was

20. Q: This were three different people who had their own

21 version of those events, right?

22

23 Q. And as with any other event that we humans took at,

25 event, right?

Renfroe-Defense-Cross

1 A. Yes.

2 Q. Did you ever get the impression from representing
3 MS. Taylor that she was trying to put words in witness's
4 mouths?

5 A. No. You mean other than what's on the tape?

6 Q. Right. The tape speaks for itself. You heard them.
7 But my question to you is, in the course of
8 representing her, did she ever suggest to you to tell a witness
9 what to say?

10 A. Not that I recall.

11 Q. You certainly weren't the home team in this process,
12 were you? You were the visiting team here on Staten Island?

13 MS. GRADY: Objection.

14 A. Yes, definitely.

15 THE COURT: That's okay. Now I understand.

16 Q. This was perhaps the single most reported criminal
17 incident on Staten Island for some time?

18 A. That's correct.

19 Q. And you have been practicing a long time as a defense
20 attorney. As a defense attorney is this a borough you want to
21 be in on a good day?

22 MS. GRADY: Objection.

23 THE COURT: Sustained. That's stricken.

24 Q. You had a tough road, didn't you?

25 A. Yes.

Renfroe-Defense-Cross

1 Q. You felt you were swimming upstream all the way?

2 A. Yeah.

3 Q. Now, you mentioned one of your witnesses being
4 significantly browbeat on cross examination. Dr. Wang I
5 believe at the hearing?

6 A. Yes.

7 Q. And Judge Collini started to get upset because he
8 didn't have his notes?

9 A. Yeah, I remember that.

10 Q. And you remember that distinctly?

11 A. That's pretty much what it was about. He didn't have
12 something, you know.

13 Q. And Judge Collini let his displeasure be known, right?

14 A. That is correct.

15 Q. Was Ms. Taylor in the courtroom for that?

16 A. Yes.

17 Q. She observed Judge Collini in that attitude, shall we
18 say?

19 A. Yes.

20 Q. And were there other times when he might have asserted
21 his authority during the course of the proceedings?

22 A. I guess the answer to that is yes.

23 Q. And clearly Ms. Taylor was present for all of that?

24 A. Yes.

25 Q. Did you have any idea -- withdrawn.

Renfroe-Defense-Cross

I am assuming you know, in the course of practicing, that client's calls are recorded at Rikers Island, right?

A. My advice to all clients is -- when I get them on cases is, do not talk about your case on the phone. That's been my advice for the last thirty years which I constantly repeat to the clients.

Q. Fair to say you would have given that same advice or do you have a recollection?

A. I can't say -- I know that is my habit, that's what I do.

Q. Okay, any reason to think you wouldn't have done it in this case?

A. I would have done it a lot in this case.

Q. Ms. Taylor was an active participant in preparing her case?

A. Yes.

Q. Spent some time in the law library did she, to your knowledge? Did Ms. Taylor spend time in the law library in Rikers?

A. Okay, I would assume so. But you are asking about hearsay, now, right. But yeah.

THE COURT: Well, did she give you any indication? Well, did she say --

THE WITNESS: She said I am working on my case.

THE COURT: Did she give you legal materials or

1 statutes or anything like that?

2 THE WITNESS: I don't recall that.

3 Q. But did she give you the general impression she was up
4 to speed on the facts or the law as it applied to her case?

5 A. Yes.

6 Q. And it involved time?

7 A. Yes.

8 Q. Would it be fair to say then that you had no advance
9 warning whatsoever of these tapes prior to the time that you
10 were handed them by the prosecutor?

11 A. Nope.

12 Q. Was it ever disclosed to you that a panel of
13 prosecutors may have been working on this ahead of the time
14 that it was given to you?

15 A. No.

16 Q. Did you feel as though you were ambushed?

17 A. Yeah.

18 Q. How many times has that happened to you with Rikers
19 Island calls in the past -- well, prior to 2008?

20 MS. GRADY: Objection.

21 THE COURT: Sustained.

22 Q. The tapes, were they handed to you with any kind of a
23 message or suggestion by the prosecutor?

24 A. No. It's been awhile. When we approached it was,
25 you know, before he puts on his witness. Judge, we have these

Renfroe-Defense-Cross

1 tapes. He better listen to the tapes. You know that's -- you
2 and I have been around a long time. There is nothing going to
3 be good on those tapes then, right. You don't have to yell at
4 me. It's not going to be good for me there.

5 Q. I know the Judge asked you and I got to follow-up on
6 it for completeness of the record, Mr. Renfroe.

7 At that juncture and with those tapes would it not
8 have been prudent to ask for a continuance?

9 A. I guess I stand by -- I stand by my statement which is
10 that, you know, I have been in battle before. At this moment I
11 got to try and win this battle. And that's where I was at. I
12 mean, I had to make the call I am not putting on the insanity
13 defense. That was an easy one because there were things in
14 there that I wouldn't be able to fight. I wouldn't be able to
15 fight. So you give me two weeks, whatever, I can't go with
16 that defense.

17 Q. Okay.

18 A. There is another defense I can go with. So, you know
19 this is kind of like when we used to do marshall arts. This
20 is, you just punched me. I roll and come back at you. That's
21 what this is.

22 Q. And I guess the same analysis would have been
23 applicable for asking for a mistrial, right?

24 A. You know, 20/20 hindsight I guess I should have done
25 that.

Renfroe-Defense-Cross

1 Q. If the sentencing minutes in this proceeding indicated
2 that you might have chosen a different path, would you agree
3 with that?

4 A. I mean -- okay, you ask me a question, I am going to
5 answer the question. As we stood in that hallway there was
6 an offer of fifteen years. I said to my client, I think we
7 should take this. We cannot go forward with this insanity
8 defense.

9 I don't know what I said at sentencing. Although, you
10 know, I'm sorry that it ended up that she got convicted cause I
11 have been doing this a long time and I try to save People's
12 lives and that's why we do this job. There are many things I
13 regret about this case. One of the things I regret is that I
14 couldn't convince her that I was on her side and she should
15 take those fifteen years.

16 THE COURT: Mr. Renfroe, did you find -- there
17 again I don't know what your reaction is. It appears
18 from reading the transcript that the People rested their
19 direct case, then you were informed of the tapes and then
20 the People turned around and offered you the same plea
21 offer they had made at the beginning of the case?

22 THE WITNESS: Yes.

23 THE COURT: What is your reaction to that? Did
24 that surprise you?

25 THE WITNESS: No. I think -- you know, either

Renfroe-Defense-Cross

1 way I go I'm in trouble on this case. I think they were
2 being decent human beings and trying to come with a fair
3 resolution to a very difficult case where they knew at
4 this moment that we'd been wounded badly.

5 THE COURT: Thank you.

6 Q. And I would ask you the same questions -- well,
7 withdrawn.

8 MS. Taylor filed an appeal?

9 A. Yes.

10 Q. You recall being contacted by an attorney representing
11 her prosecuting her appeal?

12 A. I'm sure.

13 Q. Do you happen to recall telling that attorney that
14 maybe it should have been done different?

15 A. I don't remember that.

16 Q. Okay. You were asked I think on direct examination by
17 the prosecutor about experts, right, and often times cases come
18 down to an expert.

19 Was it a surprise to you when Dr. Schneider, the
20 people's doctor, came back and said Ms. Taylor is perfectly fit
21 to proceed and she is, in fact, malingering after your doctor
22 had a completely different diagnosis?

23 A. I'm not sure if he was the same doctor that I had on
24 the Troy Batson case. I'm not sure. The short answer is no,
25 it doesn't surprise me.

1 Q. You wouldn't expect to find a People's doctor agreeing
2 with your doctor, would you?

3 A. It's happened now and again but it's a rarity.

4 Q. And given the standing or the posture of this case,
5 the nature of who the victim was, you certainly anticipated
6 getting a different opinion from the prosecution, did you
7 not?

8 MS. GRADY: Objection.

9 THE COURT: Sustained.

10 There again, maybe this is the same question just
11 in another way.

12 Having Dr. Schneider's report didn't deter you
13 from opening to the jury that you were still going to
14 present Dr. Berrill's opinion to them; is that correct?

15 THE WITNESS: That's correct. Now, if I had the
16 tapes before I opened that might have been a different
17 story.

18 THE COURT: That's a different question.

19 Q. But again, in following up on Judge Garnett's
20 question. You had spoken to Ms. Taylor prior to opening, you
21 had spoken to your witnesses prior to opening, and whether or
22 not there was a strong or even weak likelihood of success, did
23 you consider that at least you were going to be in the hunt of
24 advancing that defense?

25 A. Yes, in the beginning.

Renfroe-Defense-Cross

1 Q. Now, do you recall the decision having to be made as
2 to whether or not Ms. Taylor was going to offer testimony?

3 A. Yes.

4 Q. And the record clearly states what the colloquy was
5 before Judge Collini and the decision that ultimately
6 Ms. Taylor spoke those words.

7 Can you give the Court any flavor of the dialogue that
8 took place between yourself and Ms. Taylor before that decision
9 was announced in court?

10 A. I would be lying if I can tell you the exact words.

11 We were going over the facts of what had happened with the
12 tapes. Some of it -- I thought some more damaging ones and
13 why you know -- I think she was expressing that she still
14 wanted me to go forward with the defense. I was telling her I
15 thought it was, you know, not a defense that we could go
16 forward with. I'm making the choice not to do that but she had
17 the right to testify or not.

18 Q. Again, without asking you to put a value on

19 Ms. Taylor's legal knowledge or anything like that, was it your
20 impression that she felt what she said on the tapes was not
21 inappropriate? That she had her own explanation for what was
22 contained on those tapes?

23 A. I don't think our conversation got to that point where
24 she said, What I said -- I mean there were a lot of tapes --
25 What I said was perfectly fine. You know, I mean, I don't

Renfroe-Defense-Cross

1 believe that was covered.

2 Q. Well, she had not had the opportunity to listen to the
3 tapes, correct?

4 A. That is correct.

5 Q. But she still wanted to advance her defense?

6 A. That's correct.

7 MR. SMALLMAN: Thank you very much, Mr. Renfroe.

8 THE COURT: Any redirect?

9 MS. GRADY: Briefly.

10 REDIRECT EXAMINATION

11 BY MS. GRADY:

12 Q. With regard to the objective facts of her driving
13 naked, for example, and having other symptoms which might
14 indicate a psychotic episode as Mr. Smallman phrased it, in
15 your opinion were those external signs consistent with a
16 potential mental disease or defect?

17 A. Yes, I thought they could be.

18 Q. Were they also consistent with intoxication?

19 A. They could be, yes.

20 Q. With regard to whether you verified the truth of
21 whether or not she was taking her medication, did you feel it
22 was necessary to verify whether she was taking her medication
23 or not or was it more just the fact that it was said on a
24 tape and the jury would hear it? Which was more relevant to
25 you?

Renfroe-People-Redirect

1

A. The fact that the jury would hear it.

2

Q. Again, with regard to your decision that the insanity defense was no longer viable, was there any need for a continuance to make that decision?

3

A. No, I had made that decision.

4

Q. You said with 20/20 hindsight perhaps you should have asked for a mistrial?

5

A. I can say that. But I can also tell you with 20/20 hindsight that it wasn't going to be granted. We were in the

6 fire. That's where we were.

7 Q. Did you have any other doctors examine her besides

8 Dr. Berrill?

9 A. I don't believe so. I know there was another,

10 Dr. Pabon, who also examined her along with Dr. Wang.

11 Q. Aside from that no?

12 A. No.

13 THE COURT: Any recross?

14 RECROSS EXAMINATION

15 BY MR. SMALLMAN:

16 Q. We don't live in a perfect world, Mr. Renfroe. With

17 20/20 hindsight and even some Monday morning quarterbacking

18 would it have been appropriate to demand from Judge Collini a

19 continuance?

20 A. Maybe a mistrial but not a continuance.

21 MR. SMALLMAN: Thank you very much.

22

23 AP

24

Renfroe-Defense-Recross

1 THE COURT: Anything further?

2 MS. GRADY: No, Judge.

3 THE COURT: Thank you very much, Mr. Renfroe. I
4 appreciate you taking the time out of your busy practice
5 to come down --

6 THE WITNESS: Thank you, your Honor.

7 THE COURT: -- to Staten Island and testify.

8 Thank you so much. You are excused.

9 (Witness excused).

10 THE COURT: Are there any other witnesses that
11 the People would like to present as part of this hearing?

12 MR. SMALLMAN: No.

13 MS. GRADY: No, your Honor.

14 THE COURT: Mr. Smallman, any further witnesses
15 by the defense?

16 MR. SMALLMAN: No, your Honor.

17 THE COURT: Okay, I assume you are going to want
18 to submit something on this case?

19 MR. SMALLMAN: I do need to ask to be provided
20 with a copy of the minutes.

21 THE COURT: Sure, that's granted.

22 MR. SMALLMAN: Thank you.

23 THE COURT: I also asked for them.

24 MR. SMALLMAN: Judge, so everybody is clear, I

25 know normally we are only entitled to one copy but

Renfroe-Defense-Recross

1 Ms. Taylor is asking if she can get a copy.
2

3 THE COURT: I will authorize it. I will
4 authorize a copy of the minutes to Ms. Taylor.
5

6 MR. SMALLMAN: Thank you.

7 THE COURT: All right, before we set a schedule,
8 will you step up.

9 (Whereupon, there was a discussion held off the
10 record.)

11 THE COURT: We will discuss a motion schedule.
12 This is a situation where the burden is upon the
13 defendant. So, with that, Mr. Smallman, I ask you to
14 submit first and give me a date when you believe
15 after -- how long will the minutes be? Assuming you get
16 the minutes in two weeks, when do you think you could have
17 a submission to the Court?

18 MR. SMALLMAN: Judge, I am on vacation March 21
19 to 28. If I had the minutes prior to being on vacation I
20 could certainly hope to get something to you say the
21 second week of April. I just don't see getting it before
22 the 21.

23 THE COURT: So, the second week of April?

24 MR. SMALLMAN: Get it to you by Friday, April 8.

25 THE COURT: Is that okay? You sure you got
enough time? Do you want to file this will with your
taxes?

Renfroe-Defense-Recross

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MR. SMALLMAN: About as much fun for both. How about the 12th?

THE COURT: Okay, the defense to file by the 12th.

Now, Ms. Grady, how much time would you like to reply?

MS. GRADY: May I have two weeks?

THE COURT: Sure, that would take us to the 26th of April.

Do you have any problems that week? I don't know anybody's situation. I am just involved with the public school system. I know that's a week that the public schools are closed in New York. I am going to be here. Is that okay?

MS. GRADY: I think that's fine. If I have a problem with that I will submit it early.

THE COURT: So, I will expect the People's response by the 26th and then I'll be working. I think my notes are pretty good. So, how about May 12th for the Court's decision? How is that?

MR. SMALLMAN: May I check that, sir?

THE COURT: Yes.

MR. SMALLMAN: Sure.

MS. GRADY: That's fine.

THE COURT: Thank you both very much.

Renfroe-Defense-Recross

1 I assume Ms. Taylor wants to return to Bedford
2 Hills?
3

4 THE DEFENDANT: Yes, thank you.
5 appropriate to bring her back on the 12th.
6 MS. GRADY: Shall I leave the exhibits with the
7 court or take them and submit them with my papers?
8 THE COURT: Would you step up for a second and
9 just compare.
10 (Whereupon, there was a discussion held off the
11 record.)

12 THE COURT: Okay, thank you very much.
13 MR. SMALLMAN: Thank you.

14 MS. GRADY: Thank you.

15 * * *

16

17 It is hereby certified that the foregoing is a true and
18 accurate transcript of the proceedings.
19 (Certification valid only when signed in blue ink.)

20

21 

22 ANGELA PUNTORNO
23 SENIOR COURT REPORTER

24

25

Renfroe-Defense-Recross

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